

FACE SHEET

(See Instructions on Reverse)

1989 DEC 28 PM 2 04

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
JAN 08 1990

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services
(AGENCY)

L. S. Mohr
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 12-27-89

RDB# 1189-43

FILED
In the office of the Secretary of State
of the State of California

JAN 08 1990

At 4:39 o'clock P. M.

MARCH FONG EU, Secretary of State

By *Laurella Cruz*
For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief, Regulations Development Bureau

(916) 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22

SECTIONS ADOPTED:
35332, 35332.1, 35332.2 and 35332.3

SECTIONS AMENDED:
35000(n), 35009(a), and 35013(a)

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.
CODE SEC. 11346.8(c))

N/A

DEC 28 1989

N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
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FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Amend Section 35000 to read:

35000 DEFINITIONS

35000

(n) ~~Reserved~~

(1) "Nonrecurring Adoption Expenses" means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of State or Federal law, and which have not been reimbursed from other sources or other funds.

"'Other expenses which are directly related to the legal adoption of a child with special needs' means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for payment. Such costs may include the adoption study, including health and psychological examinations, supervision of the placement prior to adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process."

Authority Cited: Sections 10553, 10554, 16118, 16118(a), and 16141, Welfare and Institutions Code; Section 1530, Health and Safety Code.

Reference: Sections 10553, 10554, 10800, 16000, 16115, 16116, 16118, 16119, 16120, 16120.1, and 16121, Welfare and Institutions Code; Sections 25, 62, 211, 224, 224m, 224n, 224q, 226.1, 226.2, 226.4, 226.6, 226a, 226c, 227, 227b, 232, 239, 7001, 7002, 7003, 7004, and 7017, Civil Code; Section 251.2 and 1502, Health and Safety Code; Sections 251.2 and 1502, Health and Safety Code; 8 USC 1101(b)(1)(F); 25 USC 1901, 1903(2), (3), (4), (5), (6), (8), (9), (11), (12); and 42 USC 673 and 675; Section 11105(a)(2), Penal Code; ~~and~~ 28 CFR Section 16.31; and 45 CFR 1356.41(i).

Amend Section 35009 to read:

35009 DISSEMINATION OF INFORMATION REGARDING SPECIAL 35009
 NEEDS CHILDREN ~~AND~~, AAP, AND REIMBURSEMENT OF
 NONRECURRING ADOPTION EXPENSES

(a) The agency shall inform the public regarding: (Continued)

(3) Reimbursement for nonrecurring adoption expenses.

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare
and Institutions Code and Section 1530, Health
and Safety Code.

Reference: Section 276, Civil Code; Sections 16115.5 and
16119, Welfare and Institutions Code; and
45 CFR 1356.40 and 45 CFR 1356.41(e)(1).

Amend Section 35013 to read:

35013 PROVISION OF INFORMATION REGARDING THE
ADOPTION OF SPECIAL NEEDS CHILDREN

35013

(a) The agency shall inform applicants regarding the availability of:

- (1) Special needs children in need of adoptive parents;
- (2) Supportive services to assist the adoptive parent in meeting the special needs child's needs;
- (3) AAP payments for special needs children;

(A) The agency shall inform the applicant for the adoption of the special needs child that the ability to adopt is not limited by the applicant's income or lack of income and that there is no test for the applicant's financial means as a prerequisite for adoption.

(4) Medi-Cal for special needs children/; and

(5) Reimbursement for nonrecurring adoption expenses incurred in the adoption of a special needs child.

(A) The agency shall inform the applicant for the adoption of a special needs child that the ability to receive this reimbursement is not limited by the applicant's income and that there is no test of the applicant's financial means as a prerequisite for this reimbursement.

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 16115.5, ~~and~~ 16119, and 6120.1(b), Welfare and Institutions Code; ~~and~~ 45 CFR 1356.40; and 45 CFR 1356.41(e)(1).

Adopt Section 35332 to read:

35332 NOTIFICATION REQUIREMENTS FOR AGENCIES

35332

- (a) The agency shall provide information on the availability of reimbursement for nonrecurring adoption expenses to adoptive parents as follows:
- (1) All clients who adopted a special needs child between January 1, 1987 and June 14, 1989 of the availability of reimbursement for nonrecurring adoption expenses paid after January 1, 1987.
 - (2) For adoptions in which a final decree was entered between January 1, 1987 and June 14, 1989, or where a final decree was entered before January 1, 1987 but nonrecurring adoption expenses were paid after January 1, 1987, individuals who seek reimbursement must enter into an agreement with the agency and file a claim with the agency on or before December 14, 1990.
 - (3) For adoptions in which a final decree was entered into after June 14, 1989, an agreement must be signed at the time of or prior to the final decree of adoption.
 - (A) In such cases, claims for reimbursement must be filed with the agency within two years of the date of the final decree of adoption.
- (b) The agency shall inform all applicants of the availability of this reimbursement as specified by Section 35013(a)(5).
- (c) The agency shall inform applicants that agreements entered into pursuant to this section shall meet the provisions of Section 35332.1(a)(7).

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Sections 16119 and 16120, Welfare and Institutions Code and 45 CFR 1356.41(e).

Adopt Section 35332.1 to read:

35332.1 ELIGIBILITY FOR REIMBURSEMENT

35332.1

(a) In order for a claim to be eligible for reimbursement, the agency shall:

- (1) Record in the case file that the adoption took place in compliance with applicable state and local laws.
- (2) Record in the case file that the child for whose adoptive costs the parents are claiming reimbursement is a special needs child as defined in Section 35000(s)(4).
- (3) Record in the case file that the placement meets the search requirements of Section 35327.
- (4) Include verification in the case file that the expenses claimed were actual expenditures. "Verification" includes, but is not limited to, copies of the following:
 - (A) Cancelled checks;
 - (B) Signed and dated receipts.
- (5) Record in the case file that the expenses claimed meet the definition of "nonrecurring adoption expenses" as defined in Section 35000(n).
- (6) Record in the case file that the adoptive parents have not received reimbursement for the claimed expenses from other sources. "Other sources" include, but are not limited to, the following:
 - (A) Reimbursement from employers;
 - (B) Income tax deductions.
- (7) Except as provided in Section 35332(a)(2)(A), ensure that all adoptive parents sign an agreement with the agency prior to finalization of the adoption. The content of all such agreements shall meet the requirements as follows:

- (A) The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.
 - (B) The agreement ⁹may be a separate document or part of an agreement for either state or federal adoption assistance payments or services.
- (8) Limit the maximum reimbursement for nonrecurring adoption expenses to \$400.00 per placement of a special needs child.
- (A) Reimbursement for the adoptions costs incurred for the adoption of siblings shall be paid as follows:
 - 1. Siblings placed for adoption either separately or as a unit are treated as individual placements with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.
- (9) Record in the case file that reimbursement for nonrecurring adoption expenses in interstate placements shall conform to the following:

(A) When the adoption of the child involves interstate placement, the State that enters into an Adoption Assistance Agreement under Section 473(a)(1)(B)(ii) of the Social Security Act or under a state subsidy program will be responsible for paying the nonrecurring adoption expenses of the child. In cases where there is interstate placement but no agreement for other Federal or State adoption assistance, the State in which the Final Adoption Decree is issued will be responsible for reimbursement of nonrecurring expenses if the child meets the requirements of 473(c).

(B) Interstate placements which do not comply with the Interstate Compact on the Placement of Children are not eligible for reimbursement.

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.41.

Adopt Section 35332.2 to read:

35332.2 AUTHORIZATION FOR REIMBURSEMENT

35332.2

(a) Pursuant to a determination that a claim for reimbursement for nonrecurring adoption expenses meets the eligibility criteria in Section 35332.1, the agency shall authorize the appropriate county to reimburse the adoptive parents.

(1) The county responsible for reimbursement shall be the county responsible for the child's Adoption Assistance Program (AAP) payment.

(A) In cases in which the adoptive parents have elected not to receive AAP payments, the county responsible for reimbursement shall be the county that would otherwise provide the child's AAP payment.

Authority Cited: Sections 10553, 10554, and 16120.1(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.41(g).

Adopt Section 35332.3 to read:

35332.3 AGENCY REQUIREMENTS FOR REIMBURSEMENTS

35332.3

- (a) The county responsible for the child's Adoption Assistance Program (AAP) payment shall be the county responsible for the direct reimbursement to that child's adoptive parents for their nonrecurring adoption expenses as required by Welfare and Institutions Code Section 16120.1. This reimbursement shall be separate from the child's AAP payment as required by Welfare and Institutions Code Section 16120.1(d).

HANDBOOK BEGINS HERE

- (1) Welfare and Institutions Code Section 16120.1, in pertinent part, states:

(A) "Upon the authorization of the licensed adoption agency, or where appropriate, the department, the county responsible for providing adoption assistance program payments shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a special needs child.... Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department...."

- (2) Welfare and Institutions Code Section 16120.1(d) states:

(A) "Reimbursement for nonrecurring expenses shall be in addition to any adoption expenses paid pursuant to Section 16121 and shall not be included in the computation of maximum benefits for which the family is eligible pursuant to Section 16121."

HANDBOOK ENDS HERE

- (b) The state shall reimburse counties for payments made to adoptive parents of special needs children as mandated by Welfare and Institutions Code Section 16120.1.

HANDBOOK BEGINS HERE

- (1) Welfare and Institutions Code Section 16120.1, in pertinent part, states:

- (A) "...The State shall provide payment to the county for the reimbursement...."

HANDBOOK ENDS HERE

- (c) Reimbursement for nonrecurring adoption expenses is contingent upon the ongoing existence of the federal program for these reimbursements as mandated by Welfare and Institutions Code Section 16120.1(b).

HANDBOOK BEGINS HERE

- (1) Welfare and Institutions Code Section 16120.1(b), in pertinent part, states:

- (A) "...No payments shall be made under this section if the federal program for reimbursement of nonrecurring expenses for the adoption of special needs children pursuant to Section 673 of Title 42 of the United States Code is terminated."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 16118(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

FILED
In the office of the Secretary of State
of the State of California

CERTIFICATION

OF

APPROVAL

JAN 0 6 1990

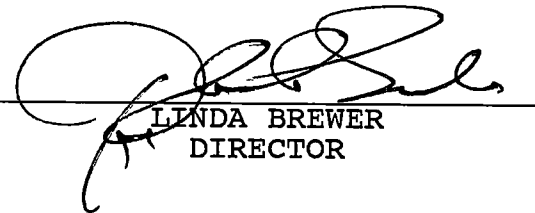
At 4:39 o'clock P. M.
MARCH FONG EU, Secretary of State

By Louella Cruz
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 89-1228-02


LINDA BREWER
DIRECTOR

01/08/90

FACE SHEET

(See Instructions on Reverse)

89-1218-02
RDB 0589-15

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulation adopted and made available by the agency and that the information on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 12-13-89

FILED

In the office of the Secretary of State
of the State of California

JAN 11 1990

At 4:15 o'clock P.M.

MARCH FONG EU, Secretary of State

By Louella Cruz
Deputy Secretary of State

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JAN 11 1990

Office of Administrative Law

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie Clark Chief, Regulations Development Bureau (916) 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: _____
SECTIONS AMENDED: 22-022.2 & .3
SECTIONS REPEALED: _____
b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
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☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
August 4, 1989
b. DATE OF FINAL AGENCY ACTION
December 15, 1989
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
None
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
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b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
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- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)


DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

Amend Sections 22-022.2 and .3 to read:

22-022 TIMELY NOTICE-AID PENDING HEARING (Continued) 22-022

- 2 Timely notice shall not be required in the following instances, although the county shall send adequate notice no later than the effective date of the action: (Continued)

(k) The CWD has made a presumption of mismanagement of AFDC funds based upon a recipient's nonpayment of rent.

(1) A presumption of mismanagement based upon nonpayment of rent includes the inability of a recipient to provide verification that AFDC Homeless Assistance was spent on shelter/housing, in accordance with Section 44-211.514(e)

- 3 If timely notice is not required under the provisions of Section 22-022.2, and the claimant requests a state hearing within ten days of the required adequate notice, aid shall be reinstated retroactively, according to the provisions of Section 22-022.5.

•31 Aid shall not be reinstated retroactively if the CWD has made a presumption of mismanagement of AFDC funds based on the claimant's nonpayment of rent.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: 45 CFR 205.10(a)(4)(ii)(J) and (a)(6)(i)(D).

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In the office of the Secretary of State
of the State of California

JAN 11 1990

At 4:15 o'clock P.M.

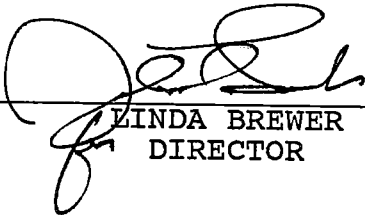
MARCH FONG EU, Secretary of State

By Louella Lutz
Deputy Secretary of State

This certifies that the regulations submitted in the
rulemaking file identified below were reviewed and approved
by the Director of the Office of Administrative Law in the
city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 89-1218-03


LINDA BREWER
DIRECTOR

01/11/90

FACE SHEET

(See Instructions on Reverse)

89-1215-02C
RDB# 0887-28
FILED
In the office of the Secretary of State
of the State of California

1989 DEC 15 11:10:35

OFFICE OF
ADMINISTRATIVE LAW

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)
L. L. S. M. M.
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 12-13-89

JAN 16 1990

At 4:02 o'clock P. M.
MARCH FONG EU, Secretary of State
By Louella Cruz
Deputy Secretary of State

**ENDORSED
APPROVED FOR FILING**
JAN 16 1990

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE
Rosalie Clark, Chief, Regulations Development Bureau 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP SECTIONS ADOPTED: 44-102
SECTIONS AMENDED:
SECTIONS REPEALED:
b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
9/29/89 b. DATE OF FINAL AGENCY ACTION
12/13/89 c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Amend Section 44-102 to read:

44-102 AVAILABILITY OF INCOME

44-102

All income shall be considered currently available during the month received, except:

- a. INTEREST INCOME - Interest income which is received on a regular basis, but less frequently than monthly, shall be apportioned equally over the number of months it has accrued beginning with the month after receipt.
- b. CONTRACTUAL INCOME - Income an employee receives under an annual contract of employment shall be apportioned equally over the period of the contract beginning with the first month of the contract when he works and receives income from such contract in fewer than twelve (12) months, but more than eight (8) months.
- c. CHILD SUPPORT - Child support collected by the county shall not be considered available to the recipient, other than as provided in Sections 43-203.12 and 43-203.15.
- d. LUMP SUM REMAINDER - Any income remaining after computing the period of ineligibility due to the receipt of nonrecurring lump-sum income shall be considered income in the first month following the period of ineligibility. See Section 44-207.4.
- e. MONTHLY RECURRING UNEARNED GOVERNMENTAL BENEFITS - Monthly benefits (e.g., Social Security benefits, or Veterans benefits, etc.) shall be considered to be available in the month the payment was intended, rather than actually received, when the income meets the following criteria:
 1. The receipt date of the income varies because mailing cycles cause two payments to be received in one month and none in the preceding or following month;
 2. The source of income is a governmental benefit program; and
 3. The income is unearned and recurring.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450.5, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In the office of the Secretary of State
of the State of California

JAN 16 1990

At 4:02 o'clock P. M.

MARCH FONG EU, Secretary of State

By Mella Cruz
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 89-1215-02

Linda Brewer
LINDA BREWER
DIRECTOR

01/16/90

FACE SHEET

(See Instructions on Reverse)

90-0112-03RC

1990 JAN 12 PM 2:15

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

FEB 13 1990

Office of Administrative Law

For use of Office of Adm Law

RESUBMITTAL CERT

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended, repealed, or rescinded by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

L. S. Michel
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

1-12-90

FILED

In the office of the Secretary of State
RDB of the State of California

FEB 13 1990

At 3:58 o'clock P.M.

WONG EU, Secretary of State

Paula Cruz
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie Clark, Chief, Regulations Development Bureau (916) 445-0313
2. Type of filing, (check one)
☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title 22
SECTIONS ADOPTED: 87700, 87701, 87702, 87702.1, 87703, 87704, 87705, 87706, 87707, 87708, 87709, 87710, 87711, 87712, 87713, 87714, 87715, 87720, 87721, and 87722.
SECTIONS AMENDED: 87101.
SECTIONS REPEALED: None.
- b. The following sections listed in 3a contain modifications to the text originally made available to the public: 87101, 87701, 87702, 87702.1, 87703, 87704, 87705, 87706, 87707, 87708, 87709, 87710, 87711, 87712, 87713, 87714, 87715, 87720, 87721, and 87722.
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☐ No ☒ Yes, if yes, give date(s) of prior submittal(s) to OAL: 89-0815-02C
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
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☒ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
May 20, 1989
b. DATE OF FINAL AGENCY ACTION
JAN 12 1990
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) 07/28/89-08/11/89 & 12/15/89 through 01/02/90
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
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TITLE 22 CALIFORNIA CODE OF REGULATIONS

Chapter 8 Residential Care Facilities for the Elderly (RCFE)

Article 8 Incidental Medical Services

Section

87700	Health & Safety Protection
87701	Prohibited Health Conditions
87702	Allowable Health Conditions
87702.1	General Requirements for Allowable Health Conditions
87703	Oxygen Administration
87704	Intermittent Positive Pressure Breathing Machine (IPPB)
87705	Colostomy/Ileostomy
87706	Enema and/or Suppository and Fecal Impaction Removal
87707	Indwelling Urinary Catheter/Catheter Procedure
87708	Managed Bowel and Bladder Incontinence
87709	Contractures
87710	Diabetes
87711	Injections
87712	Protective Supervision
87713	Healing Wounds
87714	Transfer Dependency
87715	PRN (pro re nata) Medication
87720	Incidental Medical Related Services Appeals
87721	Incidental Medical Related Services Exceptions
87722	Licensing Agency Review

Amend Section 87101 to read:

87101 DEFINITIONS (Continued)

87101

- (5) Appropriately Skilled Professional: Means an individual that has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes but is not limited to the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or facilities and who are currently licensed in California.
- (6) through (22) (Continued)
- (23) Healing wounds include cuts, stage one and two dermal ulcers as diagnosed by a physician, and incisions that are being treated by an appropriate skilled professional with the affected area returning to its normal state. They may involve breaking or laceration of the skin and usually damage to the underlying tissues.
- (24) through (25) (Continued)
- (26) Instruction: Means to furnish an individual with knowledge or to teach, give orders, or direction of a process or procedure.
- (27) through (46) (Continued)
- (47) Supervision: Means to oversee or direct the work of an individual or subordinate but does not necessarily require the immediate presence of the supervisor.
- (48) through (50) (Continued)

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.5, 1569.10,
 1569.145, 1569.15, 1569.157, 1569.17, 1569.19,
 1569.20, 1569.21, 1569.30, 1569.312, 1569.44,
 1569.47 and 1569.82, Health and Safety Code.

Chapter 8 Residential Care Facilities for the Elderly (RCFE)

Article 8 Incidental Medical Services

87700

HEALTH & SAFETY PROTECTION

87700

- (a) Acceptance by the licensee of residents with incidental medical needs shall be in accordance with the conditions specified in this article.
- (b) The provisions of this article shall be applicable and in conjunction with Articles 1 through 7 of this chapter.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Section 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

Amend Section 87701 to read:

87701 PROHIBITED HEALTH CONDITIONS

87701

- (a) In addition to Section 87582(c), persons shall not be ~~received~~ accepted or retained in a Residential Care Facility for the Elderly (RCFE) who require health services or have a health condition including, but not limited to, those specified below:
- (1) Prescriptions or medications to be administered on an as needed or PRN (pro re nata) basis except as specified in Section 87715.
 - (2) Inability to turn in bed without assistance or to transfer to or from bed independently except as specified in Section 87714.
 - (3) Catheter care except as specified in Section 87707.
 - (4) Colostomy/ileostomy care except as specified in Section 87705.
 - (5) Contractures except as specified in Section 87709.
 - (6) Dermal Ulcers, except as specified in Section 87713.
 - (7) Diabetes except as specified in Section 87710.
 - (8) Enemas, suppositories, and/or fecal impaction removal except as specified in Section 87706.
 - (9) Gastrostomy care.
 - (10) Incontinence of bowel and/or bladder except as specified in Section 87708.
 - (11) Injections except as specified in Section 87711.
 - (12) Intermittent Positive Pressure Breathing Machine use except as specified in Section 87704.
 - (13) Administration of oxygen except as specified in Section 87703.
 - (14) Use of liquid oxygen.
 - (15) Naso-gastric tubes.
 - (16) Protective supervision except as specified in Section 87712.
 - (17) Staph infection or other serious infection.

- (18) Residents who depend on others to perform all activities of daily living for them as set forth in Section 87584.
- (19) Tracheostomies.
- (20) Wound care except as specified in Section 87713.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

- (a) A licensee shall be permitted to accept or retain in a Residential Care Facility for the Elderly persons who have a health condition(s) which requires incidental medical services including, but not limited to, those specific situations specified in Sections 87703 through 87715 of this chapter.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

Amend Section 87702.1 to read:

87702.1 GENERAL REQUIREMENTS FOR ALLOWABLE
 HEALTH CONDITIONS

87702.1

- (a) The licensee shall complete and maintain a current, written record of care for each resident that includes, but is not limited to, the following:
 - (1) Documentation from the physician of the following:
 - (A) Stability of the medical condition(s);
 - (B) Medical condition(s) which require incidental medical services;
 - (C) Method of intervention
 - (D) Resident's ability to perform the procedure; and
 - (E) An appropriately skilled professional shall be identified who will perform the procedure if the resident needs assistance.
 - (2) The name, address and telephone number of vendors and appropriately skilled professionals providing services.
 - (3) Emergency contacts.
- (b) In addition to Section 87565(c), facility staff shall have knowledge and the ability to recognize and respond to problems and shall contact the physician, appropriately skilled professional, and/or vendor as necessary.
- (c) In addition to Sections 87587 and 87591, the licensee shall monitor the ability of the resident to provide self care for the allowable health condition and document any change in that ability.
- (d) In addition to Sections 87575(a) and 87590(d) the licensee shall ensure that the resident is cared for in accordance with the physician's orders and that the resident's medical needs are met.

- (e) The duty established by this section does not infringe on the right of a resident to receive or reject medical care or services as allowed in Section 87573(a)(16).

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

Amend Section 87703 to read:

87703 OXYGEN ADMINISTRATION

87703

- (a) The licensee shall be permitted to accept or retain a resident who requires the use of oxygen administration under the following circumstances:
- (1) If the resident is mentally and physically capable of operating the equipment, is able to determine his/her need for oxygen, and is able to administer it him/herself.

OR

- (2) If intermittent administration of oxygen by an appropriately skilled professional has been approved by the licensing agency.
- (b) In addition to Section 87702.1, the licensee shall be responsible for the following:
- (1) Monitoring of the resident's ongoing ability to operate the equipment in accordance with the physician's orders.
- (2) Ensuring that oxygen administration is provided by an appropriately skilled professional should the resident require assistance.
- (3) Ensuring that the use of oxygen equipment meets the following requirements:
- (A) A report shall be made in writing to the local fire jurisdiction that oxygen is in use at the facility.
- (B) "No Smoking-Oxygen in Use" signs shall be posted in the appropriate areas.
- (C) Smoking shall be prohibited where oxygen is in use.
- (D) All electrical equipment shall be checked for defects which may cause sparks.
- (E) Oxygen tanks shall be secured in a stand or to the wall.

- (F) Under no circumstances shall ~~long plastic tubing~~ lines an extension to the standard seven (7) foot plastic tubing from the nasal canula or mask to the main source of oxygen be permitted.
 - (G) Oxygen from a portable source shall be used by residents when they are outside of their rooms.
 - (H) Equipment shall be operable.
 - (I) Equipment shall be removed from the facility when no longer in use by the resident.
- (4) Determining that room size can accommodate equipment in accordance with Section 87577.
 - (5) Ensuring that facility staff have knowledge of, and ability in the operation of the oxygen equipment.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

(a) The licensee shall be permitted to accept or retain a resident who requires the use of an IPPB machine under the following circumstances:

- (1) If the resident is mentally and physically capable of operating his/her own equipment and is able to determine his/her own need.

OR

- (2) If IPPB administration by an appropriately skilled professional has been approved by the Licensing Agency.

(b) In addition to Section 87702.1, the licensee shall be responsible for the following:

- (1) Monitoring of the resident's ongoing ability to operate the equipment in accordance with the physician's orders.
- (2) Ensuring that the IPPB procedure is administered by an appropriately skilled professional should the resident require assistance.
- (3) Ensuring that the use of the IPPB equipment meets the following requirements:
 - (A) Equipment shall be operable.
 - (B) Equipment shall be removed from the facility when no longer in use by the resident.
- (4) Determining that room size can accommodate equipment in accordance with Section 87577.
- (5) Ensuring that facility staff have knowledge of and ability in the operation of the IPPB equipment.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

Amend Section 87705 to read:

87705 COLOSTOMY/ILEOSTOMY

87705

- (a) The licensee shall be permitted to accept or retain a resident who has a colostomy or ileostomy under the following circumstances:
- (1) If the resident is mentally and physically capable of providing all routine care for his/her ostomy, and the physician has documented that the ostomy is completely healed.
- OR
- (2) If assistance in the care of the ostomy is provided by an appropriately skilled professional and this arrangement has been approved by the licensing agency.
- (b) In addition to Section 87702.1, the licensees shall be responsible for the following:
- (1) Ensuring that ostomy care is provided by an appropriately skilled professional.
 - (A) When an exception is granted by the licensing agency as specified in Section 87721, the ostomy bag and adhesive may be changed by facility staff ~~under the supervision and instruction of~~ who have been instructed by this professional.
 - (B) There shall be written documentation by the professional outlining instruction of the procedures ~~to~~ and the names of facility staff receiving instruction.
 - (C) The professional shall review the procedures and techniques no less than twice a month.
 - (2) Ensuring that used bags are discarded as specified in Section 87691(f)(1).
 - (3) Privacy shall be afforded when ostomy care is provided.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

- (a) The licensee shall be permitted to accept or retain a resident who requires manual fecal impaction removal, enemas, or use of suppositories under the following circumstances:
 - (1) Self care by the resident.
 - (2) Manual fecal impaction, enemas, and/or suppositories shall be permitted if administered according to physician's orders by either the resident or an appropriately skilled professional.
- (b) In addition to Section 87702.1, the licensee shall be responsible for the following:
 - (1) Ensuring that the administration of enemas or suppositories or manual fecal impaction removal is performed by an appropriately skilled professional should the resident require assistance.
 - (2) Privacy shall be afforded when care is being provided.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

- (a) The licensee shall be permitted to accept or retain a resident who requires the use of an indwelling catheter under the following circumstances:
 - (1) If the resident is physically and mentally capable of caring for all aspects of the condition except insertion and irrigation.
 - (A) Irrigation shall only be performed by an appropriately skilled professional in accordance with the physician's orders.
 - (B) A catheter shall only be inserted and removed by an appropriately skilled professional under physician's orders.
- (b) In addition to Section 87702.1, the licensee shall be responsible for the following:
 - (1) Ensuring that insertion and irrigation of the catheter shall be performed by an appropriately skilled professional.
 - (2) Ensuring that the bag and tubing are changed by an appropriately skilled professional should the resident require assistance.
 - (A) When an exception is granted by the licensing agency as specified in Section 87721, the bag may be emptied by facility staff who receive supervision and instruction from the appropriately skilled professional.
 - (B) There shall be written documentation by the appropriately skilled professional outlining the instruction of the procedures to facility staff.
 - (3) Ensuring that waste materials shall be disposed of as specified in Section 87691(f)(1).
 - (4) Privacy shall be maintained when care is provided.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b);
and 1569.312; Health and Safety Code.

- (a) The licensee shall be permitted to accept or retain a resident who has a manageable bowel and/or bladder incontinence condition under the following circumstances:
- (1) If the condition can be managed with any of the following:
 - (A) Self care by the resident.
 - (B) A structured bowel and/or bladder retraining program to assist the resident in restoring a normal pattern of continence.
 - (C) A program of scheduled toileting at regular intervals.
 - (D) The use of incontinent care products to keep the resident clean and dry at all times.
- (b) In addition to Section 87702.1, the licensee shall be responsible for the following:
- (1) Ensuring that residents who can benefit from scheduled toileting are assisted or reminded to go to the bathroom at regular intervals rather than being diapered.
 - (2) Ensuring that incontinent residents are checked during those periods of time when they are known to be incontinent, including during the night.
 - (3) Ensuring that incontinent residents are kept clean and dry.
 - (4) Ensuring that bowel and/or bladder programs are designed by an appropriately skilled professional with training and experience in care of elderly persons with bowel and/or bladder dysfunctions and development of retraining programs for restoration of normal patterns of continence.
 - (5) Ensuring that the appropriately skilled professional developing the bowel and/or bladder program provide training to facility staff responsible for implementation of the program.

- (6) Ensuring that re-assessment of the resident's condition and the evaluation of the effectiveness of the bowel and/or bladder program be performed by an appropriately skilled professional.
- (7) Privacy shall be afforded when care is provided.
- (8) Ensuring that fluids are not withheld to control incontinence.
- (9) Ensuring that an incontinent resident is not catheterized to control incontinence for the convenience of the licensee.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

- (a) The licensee shall be permitted to accept or retain a resident who has contractures under the following circumstances:

- (1) If the contractures do not severely affect functional ability and the resident is able to care for the contractures by him/herself.

OR

- (2) If the contractures do not severely affect functional ability and care and/or supervision is provided by an appropriately skilled professional and approved by the licensing agency.

- (b) In addition to Section 87702.1, the licensee shall be responsible for the following:

- (1) Ensuring that range of motion exercises or other exercise(s), if prescribed by the physician, are performed by an appropriately skilled professional or by facility staff who receive supervision and instruction from an appropriately skilled professional.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

Amend Section 87710 to read:

87710

DIABETES

87710

- (a) The licensee shall be permitted to accept or retain a resident who has diabetes if the resident is able to perform his/her own glucose testing with blood or urine specimens, and is able to administer his/her own medication including medication administered orally or through injection, or has it administered by an appropriately skilled professional.
- (b) In addition to Section 87702.1, the licensee shall be responsible for the following:
 - (1) Assisting residents with self-administered medication as specified in Section 87575.
 - (2) Ensuring that sufficient amounts of medicines, testing equipment, syringes, needles and other supplies are maintained and stored in the facility as specified in Section 87575(c).
 - (3) Ensuring that syringes and needles are disposed of as specified in Section 87691(f)(2).
 - (4) Providing modified diets as prescribed by a resident's physician as specified in Section 87576(b)(7).
Substitutions shall be made by the facility dietitian or in accordance with the recognized food exchange recommendations contained in the 1986 publication "Exchange Lists For Meal Planning", published by the American Diabetes Association, Inc. and the American Dietetic Association.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

- (a) The licensee shall be permitted to accept or retain a resident who requires intramuscular, subcutaneous, or intradermal injections if the injections are administered by the resident or by an appropriately skilled professional.
- (b) In addition to Section 87702.1, the licensees who admit or retain residents who require injections shall be responsible for the following:
 - (1) Ensuring that injections are administered by an appropriately skilled professional should the resident require assistance.
 - (2) Ensuring that sufficient amounts of medicines, test equipment, syringes, needles and other supplies are maintained in the facility and are stored as specified in Section 87575(c).
 - (3) Ensuring that syringes and needles are disposed of as specified in Section 87691(f)(2).

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

Amend Section 87712 to read:

87712 PROTECTIVE SUPERVISION

87712

(a) The licensee shall be permitted to accept or retain a resident who requires protective supervision under the following circumstances:

(1) If the resident is mildly confused, able to follow instructions, and can be protected from harming him/herself or others and the facility can meet the needs of the resident.

OR

(2) If the resident is severely confused, has difficulty making his/her needs known, and/or has difficulty following instructions and the facility has additional precautions to protect the residents and approval from the licensing agency has been obtained.

(b) In addition to Section 87702.1, the licensee shall be responsible for the following:

(1) Ensuring that staffing is adequate to provide the supervision for those who require it while meeting the needs of all facility residents.

(2) Ensuring that the facility has ~~an appropriate~~ nonambulatory fire clearance for each room which will be used to accommodate a confused resident who meets the definition of a nonambulatory person as specified in Sections 87689 and 87710(b) 87101(a)(32) and Health and Safety Code Section 13131.

(3) Ensuring that the facility has a written plan for meeting the needs of residents who require protective supervision

(4) Ensuring that in addition to Section 87691 safety of the physical plant shall include, but not be limited to, the following:

(A) Ranges, heaters, wood stoves, inserts, and other heating devices are made inaccessible.

(B) Swimming pools and other bodies of water are fenced.

- (C) Knives, matches, firearms, tools and other items that could constitute a danger to the residents are stored where they are inaccessible to the residents.
- (D) Over-the-counter medication in addition to the medications specified in Section 87575 and all toxic substances such as plants and cigarettes are made inaccessible.
- (F) Yards shall be completely fenced, with self-closing latches and gates.
- (F) Exterior doors shall include an operational bell/buzzer or other auditory devices to alert staff when the door is opened.
- (G) The furniture and the equipment shall be safe.

15Y ENSURING THAT FACILITY STAFF HAVE TRAINING IN THE PROPER CARE OF PERSONS REQUIRING PROTECTIVE SUPERVISION/

16Y SUCH TRAINING SHALL BE FROM TRAINING/ EDUCATIONAL/ OR OTHER INSTITUTIONS INCLUDING BUT NOT LIMITED TO ALZHEIMER'S TREATMENT CENTERS/

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

- (a) The licensee shall be permitted to accept or retain a resident who has a healing wound under the following circumstances:
- (1) When care is performed by or under the supervision of an appropriately skilled medical professional, and is approved by the licensing agency.
 - (2) When the wound is the result of surgical intervention and care is performed as directed by the surgeon.
 - (A) This would include the insertion of eyedrops following cataract surgery.
 - (3) Residents accepted or retained pursuant to Section 87713(a) with a stage one or two dermal ulcer must have the condition diagnosed by a physician and receive care for the dermal ulcer from an appropriately skilled professional.
 - (A) The provision of care under Section (3) above shall be approved prior to admission of the resident by the licensing agency. Licensing agency approval shall include an evaluation of the cause of the dermal ulcer.
 - (B) All aspects of care performed by the medical professional and facility staff shall be documented in the resident's file.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

(a) The licensee shall be permitted to accept or retain a resident who cannot independently transfer to and from bed under the following circumstances:

- (1) An appropriate fire clearance is obtained.
- (2) An exception has been approved by the licensing agency.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

Amend Section 87715 to read:

87715

PRN MEDICATIONS

87715

- (a) The licensee shall be permitted to accept or retain a resident who requires as needed or PRN including prescription or nonprescription medications under the following circumstances:
- (1) The resident is able to determine his/her own need for the PRN medication.
- OR
- (2) The doctor is contacted to make the determination for the PRN medication if the resident cannot determine his/her own need prior to each dose being taken by the resident.
- (b) There shall be written detailed instructions on the prescription label for all PRN medications, including the symptoms which might require the use of the medication, the exact dosage, exact time frames between doses and the maximum dosage to be ~~given~~ taken in a 24-hour period.
- (c) In addition to Section 87702.1, for a resident who cannot determine his/her own need for a PRN medication, the licensee shall be responsible for the following:
- (1) Document date and time of contacts with the doctors.
 - (2) Maintenance of a record that indicates the date and time the PRN medication was ~~given~~ taken and the resident's response.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

- (a) The licensee may appeal if he/she disagrees with the health condition determination made by the licensing agency by submitting a written request to the licensing agency within 10 days of receipt of the determination.
- (b) All appeals submitted by the licensee shall be in writing and shall include, but not be limited to, the following:
 - (1) The reason for disagreeing with the determination by the licensing agency and why the licensee believes that the resident's condition falls within the allowable limits for an RCFE.
 - (2) Letters of support from the resident's physician and/or responsible person.
 - (3) Letter of support from the appropriate placement agency, if any.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

- (a) As specified in Section 87116 the licensee may submit a written exception request if he/she agrees that the resident has a prohibited health condition but believes that the intent of the law can be met through alternative means.
- (b) Written requests shall include, but are not ~~be~~ limited to, the following:
 - (1) Documentation of the resident's current health condition including updated medical reports, other documentation of the current health, prognosis, and expected duration of condition.
 - (2) The licensee's plan for ensuring that the resident's health related needs can be met by the facility.
 - (3) Plan for minimizing the impact on other residents.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

- (a) Certain health-related conditions as specified in Sections 87703 through 87715 may require review by the licensing staff to determine if the resident will be allowed to remain in the facility. The licensing agency shall inform the licensee that the health-related condition of the resident requires review and shall specify documentation which the licensee shall submit to the licensing agency.
 - (1) Documentation shall include, but not be limited to the following:
 - (A) Physician's assessment(s).
 - (B) Pre-admission appraisal.
 - (C) Copies of prescriptions for incidental medical services and/or medical equipment.
 - (2) The documentation shall be submitted to the licensing agency within 10 days.
- (b) If the licensing agency determines that the resident has an allowable condition, the licensee shall provide care to the resident in accordance with the conditions specified in Sections 87703 through 87715.
- (c) If the licensing agency determines that the resident has a prohibited health condition as specified in Section 87701, the licensee shall be notified and shall then submit a plan for relocating the resident.
 - (1) The notification to the licensee shall include notice of all appeal and exception rights.

Authority Cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); 1569.30(b); and 1569.312; Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

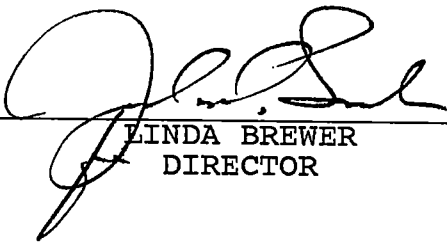
FEB 13 1990

At 3:58 o'clock P. M.
MARCH FONG EU, Secretary of State
By Louella Cruz
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 90-0112-03


LINDA BREWER
DIRECTOR

02/13/90

FACE SHEET

(See Instructions on Reverse)

RDB #0190-05

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

L. S. Mehl

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

2-16-90

FILED

In this office of the Secretary of State
of the State of California

FEB 26 1990

At 4:02 o'clock P. M.

MARCH FONG EU, Secretary of State

By *Mulla Arif*
Deputy Secretary of State

ENDORSED
APPROVED FOR FILING

FEB 26 1990

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief, Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

63-094

SECTIONS AMENDED:

63-502.2(b)(2)

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER N/A	b. DATE OF FINAL AGENCY ACTION FEB 20 1990	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) N/A
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9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- Provide the date on which the regulatory agency adopted the regulatory changes.
 - If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

63-094 IMPLEMENTATION OF EXTENSION OF THE EXCLUSION OF 63-094
VENDOR PAYMENTS FOR TEMPORARY HOUSING (PUBLIC LAW
101-220)

- .1 Effective on the date that these regulations are filed with the Secretary of State, the CWDs shall implement the amended provision in Section 63-502.2(b)(2)(D) for all new food stamp applications and continuing cases. Affected households are entitled to restored benefits from October 1, 1989 due to the extension of this provision.
- .2 For continuing cases and any household entitled to restored benefits, this provision shall be implemented and appropriate restoration of benefits made:
 - .21 Upon request by the household;
 - .22 At recertification;
 - .23 When the case is next reviewed; or
 - .24 When the CWD becomes aware that a review is needed, whichever occurs first.

Reference: Public Law 101-220, Section 10, December 12, 1989.

Amend Section 63-502.2(b)(2) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions (Continued)

(b) Vendor Payments. Money that is not legally obligated to be paid to the household, but which is paid to a third party for a household's expense by a person or organization outside of the household. (Continued)

(2) A PA or GA payment shall be considered an excludable vendor payment and not counted as income to the household if such PA or GA payment is for: (Continued)

(D) Housing assistance payments made to a third party on behalf of a household residing in temporary housing [see Section 63-102(t)], which lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption. Such vendor payments shall be excluded under this provision if paid to the housing provider during the period beginning October 20, 1987 and ending September 30, 1990.

(BE) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Public Law 101-220, Section 10, December 12, 1989.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In this office of the Secretary of State
of the State of California

FEB 26 1990

At 4:02 o'clock P.M.

MARCH FONG EU, Secretary of State

By Linda Brewer
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 90-0221-01


LINDA BREWER
DIRECTOR

02/26/90

FACE SHEET

RDB #1188-53
90-0202-01P
(See Instructions on Reverse)

1330 FEB -2 PM 3 26

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

MAR - 2 1990

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

L. D. Mehl

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 2-1-90

OAL File No.
89-1102-01R

FILED

In this office of the Secretary of State
of the State of California

MAR 02 1990

At 4:35 o'clock P. M.

MARCH FONG EU, Secretary of State

By *Laulla Cruz*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie Clark, Chief, Regulations Development Bureau
445-0313
2. Type of filing, (check one)
☐ 30-day Review
☐ Emergency
☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect
☒ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: 30-765
SECTIONS AMENDED:
SECTIONS REPEALED:
b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp)
☐ State Fire Marshall (Attach approval)
☐ Other _____ (SPECIFY AGENCY)
☐ Building Standards Commission (Attach approval)
☐ Department of Finance (Attach properly signed Std. 399)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
February 17, 1989
b. DATE OF FINAL AGENCY ACTION
FEB 3 1990
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
October 4, 1989 - October 19, 1989
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s):
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

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- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

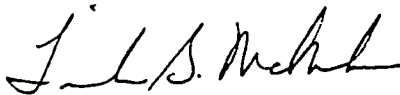
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

Amend Section 30-765.132 to read:

30-765 COST LIMITATIONS (Continued)

30-765

.1 (Continued)

.13 (Continued)

.132 The statutory maximum for individuals receiving services through modes of delivery other than the individual provider mode shall be determined by subtracting the restaurant meal allowance (see Section 30-575.134(a)(1)(A)) from the payment maximum (\$1202.75 for the severely impaired and \$828.75 for the nonseverely impaired) and dividing this by the county hourly wage rate.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

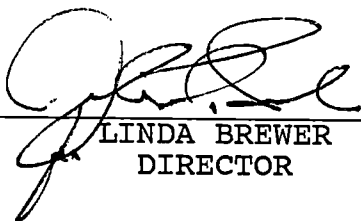
FILED
In this office of the Secretary of State
of the State of California

MAR 02 1990
At 4:35 o'clock P. M.
MARCH FONG EU, Secretary of State
By Laurella Cruz
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 90-0202-01


LINDA BREWER
DIRECTOR

03/02/90

FACE SHEET

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

RDB #0586-21

FILED

In this office of the Secretary of State
of the State of California

MAR 09 1990

At 4:05 o'clock P. M.

MARCH FONG EU, Secretary of State

By Louella Cruz

Deputy Secretary of State

For use by Secretary of State only

ENDORSED
APPROVED FOR FILING

MAR 09 1990

Office of Administrative Law

For use of Office of Adm Law

State Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

2-2-90

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie Clark, Chief, Regulations Development Bureau
TELEPHONE 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title 22
SECTIONS ADOPTED: See attached Item #1
SECTIONS AMENDED: See attached Item #2
SECTIONS REPEALED: See attached Item #3
b. The following sections listed in 3a contain modifications to the text originally made available to the public: See attached Item #4.
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☐ No ☒ Yes, if yes, give date(s) of prior submittal(s) to OAL: 9/6/89, OAL File No. 89-0906-04
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
November 25, 1988
b. DATE OF FINAL AGENCY ACTION
February 2, 1990
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
12/23/89 through 1/8/90
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s):
d. ☐ Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
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- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
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Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.

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- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

ITEM #1
Sections Adopted

Title 22, Sections 35095.1, 35095.2, 35129, 35131, 35133, 35134,
35135, 35137, 35139, 35141, 35143, 35145, 35147,
35148, 35149, 35151, 35153, and 35155.

ITEM #2

Sections Admended

Title 22, Sections 35000, 35087, 35089, 35095, 35111, and 35113.

ITEM #3

Sections Repealed

Title 22, Sections 35128, 35142, 35144, 35146, 35148, 35150, 35152, and 35154.

ITEM #4

Sections Made Available to the Public

Title 22, Sections 35000, 35087, 35089, 35095, 35095.1, 35095.2, 35111,
35113, 35129, 35131, 35133, 35134, 35135, 35137, 35139,
35141, 35143, 35145, 35147, 35148, 35149, 35151, 35153,
and 35155.

Amend Section 35000(b) and (r) to read:

35000 DEFINITIONS (Continued)

35000

(b) (1) "Birth Parent" means the biological parent of a child.
(Continued)

(r) (1) (Continued)

(2) (Continued)

(3) "Relinquishment Form" means a relinquishment document
as described in Section 35145 and a Statement of
Understanding as described in Section 35147 or 35148.

~~(3)~~4 (Continued)

Authority Cited: Section 10553, 10554, 16118, 16118(a) and
16141, Welfare and Institutions Code; and
Section 1530, Health and Safety Code.

Reference: Section 10553, 10554, 10800, 16000, 16115,
16116, 16118, 16120 and 16121, Welfare and
Institutions Code; Sections 25, 62, 221, 224,
224m, 224n, 224q, 226.1, 226.2, 226.4, 226.6,
226a, 226c, 227, 227b, 232, 239, 7001, 7002,
7003, 7004 and 7017, Civil Code; Sections 251.2
and 1502, Health and Safety Code; 8 U.S.C.
1101(b)(1)(F); 25 U.S.C. 1901, 1903(2), (3),
(4), (5), (6), (8), (9), (11), (12); and 42
U.S.C. 673 and 675; and Section 11105(a)(2),
Penal Code; and 28 CFR Section 16.31.

Amend Sections 35087(a) to read:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS
ARTICLE 1 AGENCY RESPONSIBILITY (continued)

35087 DOCUMENTATION TO FACILITATE ASSESSMENT

35087

(a) The agency shall obtain the following documentation for all petitioners to facilitate the assessment: (continued)

(2). Authorization for release of financial information, if necessary.

(23) Report of medical examination on the petitioner.

(A) The medical report shall be signed by a licensed physician or a nurse practitioner practicing under a licensed physician.

(B) (Continued)

(C) (Continued)

(24) School reports for all school age children residing in the home of the petitioner.

(5) For each adult residing in the home of the petitioner, a certificate that the individual is free from communicable tuberculosis.

(6) At least three letters of reference regarding the suitability of the petitioner as an adoptive parent.

(A) The agency shall be permitted to substitute face-to-face interviews with individuals providing references for letters of reference.

(1) Interviews with individuals providing references shall be documented in the adoption case record.

(7) (Continued)

(8) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 226.55, Civil Code.

Reference: Sections 226.2, 226.5, 226.55 and 226.6, Civil Code.

Amend Section 35089 to read:

35089 OBTAINING IDENTIFYING INFORMATION AND EVALUATING 35089
 PETITIONERS DURING ASSESSMENT

(a) The assessment of the petitioner shall include:

(1) Obtaining the following identifying information on the petitioner and any children and adults residing in the home:

(A) (Continued)

(B) (Continued)

(C) (Continued)

(D) (Continued)

(E) (Continued)

(F) (Continued)

(G) Verification of marital status, if relevant.

1. Verification of termination of all prior marriages.

(H) Personal and/or biological relationship of the petitioner to other individuals residing in the petitioners home.

(2) Evaluation of the following for the petitioner and any children and adults residing in the home: (Continued)

(B) Feelings and attitudes which may impact the adoption.

1. (i) through (v) (Reserved)

HANDBOOK

1. Feelings and attitudes ~~may include~~ regarding:

(i) (Continued)

(ii) (Continued)

(iii) (Continued)

(iv) (Continued)

(v) The ability of the petitioner to accept the adoption as a life-long process.

(C) (Continued)

(D) (Continued)

(E) (Continued)

(F) (Continued)

(G) (Continued)

(3) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health And Safety Code; and Section 226.55, Civil Code.

Reference: Sections 226.2, 226.5, 226.55 and 226.6, Civil Code; and Section 11105.2, Penal Code.

Amend Section 35095(a) to read:

35095 GENERAL PREREQUISITES TO CONSENT

35095

(a) Prior to accepting a consent to adoption, the agency representative shall: (Continued)

- (8) Provide the parent with an explanation of information contained within the Statement of Understanding form prescribed by the Department.
- (9) Obtain the parent's signature on the Statement of Understanding form after the parent has:
 - (A) Affirmed his/her understanding of the consent process by reading and initialing each explanatory statement on the Statement of Understanding form.
- (10) Sign the Statement of Understanding form certifying that the parent's signature has been properly witnessed.
- (11) The Statement of Understanding for the parent whose child is not subject to the Indian Child Welfare Act (ICWA) is Section 35095.1 and the Statement of Understanding for the parent whose child is subject to the ICWA is Section 35095.2.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 224p, 224q, 226.1, 226.2, 226.5 and 226.6, Civil Code.

Adopt Section 35095.1 to read:

35095.1 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS NOT SUBJECT TO THE ICWA 35095.1

(a) (Reserved)

HANDBOOK

(a) Refer to Section 35095.2 for the Statement of Understanding for the parent whose child is subject to the ICWA.

(b) The Statement of Understanding shall contain statements which summarize the following:

(1) For the parent who gave physical custody of the child to the adoptive parents:

(A) The parent wants to permanently give his child to the petitioners for adoption.

(B) The parent has chosen the petitioners to be adoptive parents based on the parent's personal knowledge of the items specified in Civil Code Section 224q.

HANDBOOK

1. The relevant content of Civil Code Section 224q is located at Section 35095(a)(6)(A)1.

(C) The parent has the right to seek legal counsel to assist in the Independent Adoption process and the agency can refer the parent to public legal assistance in the community.

(D) The parent may talk about the plan to place the child for adoption with other professionals and with family and friends.

(E) The parent knows there are other services to assist with finance, employment, education, housing, temporary child care and health matters if uncertain about consenting to the adoption.

1. The agency will make a referral to the appropriate resource.

- (F) If the parent does not wish to consent to the adoption, the parent may sign a Refusal to Give Consent to Adoption (AD 20 (7/84)) or write a letter to the adoption agency and the adoption agency will report to the court that the parent does not want the child adopted by the petitioners.
- (G) If the parent does not sign the consent to adoption, the parent may request that the child be returned. If the petitioners do not return the child, the parent may ask the court for the return of the child. The parent will probably need legal help to do so.
- (H) If the parent changes his or her mind after signing the consent to adoption and wishes to withdraw the consent to adoption, the parent must write to the court in the county in which the adoption petition is filed, before the adoption is granted, to ask that his or her consent be withdrawn. The court may appoint an attorney for the parent if the parent cannot afford an attorney. The parent will not be permitted to withdraw the consent to adoption unless the parent proves to the court that there are good reasons for the parent's change of mind and that it would be better for the child to live with the parent rather than the petitioners.
- (I) The parent remains legally responsible for the child until the adoption is granted by the court. The agency will notify the parent if the child is not adopted by the petitioners to determine the parent's further plans for the child. The parent must keep the agency informed of his or her address.
- (J) The parent has received enough information about the petitioners and about the child's adjustment in the petitioners' family and wishes to proceed with signing the consent to adoption.
- (K) After the court grants the adoption, the parent will no longer be the child's legal parent, which means:

1. The parent will no longer be responsible for the care of the child.
 2. The petitioners will be the legal parents of the child and will be legally responsible for caring for the child.
 3. The parent will no longer have any right to the custody, services or earnings of the child.
- (L) The agency is required to give the parent all known information about the status of the child's adoption including the approximate date the adoption was completed and if the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered.
- (M) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.
- (N) After the child has been legally adopted, the parent cannot reclaim the child.
- (O) The agency cannot release any identifying information about the parent unless:
1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or
 2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among these persons in accordance with Civil Code Section 230.6, or

HANDBOOK

- (i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).

3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

HANDBOOK

- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).

- (P) The parent will be able, at any time, to add information about him or herself to the agency's adoption record.

- (Q) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.
- (R) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the consent is obtained through fraud or duress.
- (S) The parent has considered the reasons for consenting to or not consenting to the adoption of the child and has decided that to consent to adoption of the child by the petitioners is in the best interest of the child.
- (T) The Statement of Understanding for the parent who gave physical custody of the child not subject to the provisions of the ICWA is the AD 887 (3/90).
- (2) For the parent who did not give physical custody of the child to the adopting parents:

 - (A) The parent has carefully considered the reasons for consenting to the adoption of the child by the petitioners.
 - (B) The statements required by subsections 35095.1(b)(1)(C), (D), (E) and (F).
 - (C) If the parent does not sign the consent to adoption the parent may request the right to physical custody of the child in court. The parent probably will need an attorney to help him or her do this.
 - (D) The statements required by subsections 35095.1(b)(1)(H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), (R) and (S).
 - (E) The Statement of Understanding for the legal parent who did not give physical custody of the child not subject to the provisions of the ICWA is the AD 887A (3/90).
- (3) For the alleged natural father:

 - (A) He has carefully considered the reasons for consenting to the adoption of the child by the petitioners.

(B) He has been told why he is considered to be the alleged natural father of the child and he can deny paternity, waive his rights to further notice of the adoption proceedings, sign a consent to adoption or file a petition to establish the father and child relationship.

(C) The statements required by subsections 35095.1(b)(1)(C) and (D).

(D) He can take court action to establish the father and child relationship and request the right to physical custody of the child.

1. He has the right to seek legal counsel to assist in establishing the father and child relationship and in obtaining the right to physical custody of the child and the adoption agency can refer him to public legal assistance in the community.

(E) He understands that if he does not sign the Statement of Understanding and consent to adoption, the petitioners can petition the court to terminate his parental rights.

1. He has the right to look for a lawyer to help him argue against this; and
2. The adoption agency can refer him to public legal help in his community.

(F) If he is successful in establishing the father and child relationship and obtaining the right to physical custody of the child, he may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters.

1. The agency will make a referral to the appropriate resource.

(G) The statements required by subsections 35095.1(b)(1)(H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), (R) and (S).

(H) The Statement of Understanding for alleged natural father of a child not subject to the provisions of the ICWA is the AD 887B (3/90).

Authority Cited: Sections 227 and 230.8, Civil Code and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 197, 221, 222, 224, 224o, 224g, 224s, 224t, 224v, 225m, 226a, 226b, 226.1, 226.5, 227, 227aaa, 227b, 228, 229, 230.6, 230.8, 1798.24(r), 1798.24(s), 7001, 7002, 7003, 7004, 7006, 7017, 7017.2, Civil Code; Section 621, Evidence Code; and Section 6408.5, Probate Code.

Adopt Section 35095.2 to read:

35095.2 STATEMENT OF UNDERSTANDING FOR THE PARENT
WHOSE CHILD IS SUBJECT TO THE ICWA

35095.2

(a) (Reserved)

HANDBOOK

(a) Refer to Section 35095.1 for the Statement of Understanding for the parent whose child is not subject to the ICWA.

(b) The Statement of Understanding shall contain statements which summarize the following:

(1) For the parent who gave physical custody of the Indian child to the adoptive parents:

(A) The parent wants to permanently give his child to the petitioners for adoption.

(B) The parent has chosen the petitioners to be adoptive parents based on the parent's personal knowledge of the items specified in Civil Code Section 2249.

HANDBOOK

1. The relevant content of Civil Code Section 2249 is located at Section 35095(a)(6)(A)1.

(C) That because the child has been determined to be an Indian child the requirements of the Indian Child Welfare Act (ICWA) will apply to the taking of the consent and the adoption of the child.

(D) According to the ICWA the best place for the child to live if he cannot be with the parent would be with a member of his extended family. The next choice would be other members of the child's tribe. The third choice would be with another Indian family. If the parent does not wish to follow any of these placement choices, he or she must tell the court. The court must make the final decision as to whether this placement order will be changed.

- (E) The consent to adoption shall be signed before a judge of the Superior Court in California, or before a court of competent jurisdiction if signed outside the state.
- (F) The parent has the right to seek legal counsel to assist in the Independent Adoption process and the agency can refer the parent to public legal assistance in the community.
- (G) The parent may talk about the plan to place the child with other professionals and with family and friends.
- (H) The parent knows there are other services to assist with finance, employment, education, housing, temporary child care and health matters if uncertain about consenting to the adoption.
1. The agency will make a referral to the appropriate resource.
- (I) If the parent does not wish to consent to the adoption, the parent may sign a Refusal to Give Consent to Adoption (AD 20 (7/84)) or write a letter to the adoption agency and the adoption agency will report to the court that the parent does not want the child adopted by the petitioners.
- (J) If the parent does not sign the consent to adoption, the parent may request that the child be returned. If the petitioners do not return the child, the parent may ask the court for the return of the child. The parent will probably need legal help to do so.
- (K) If the parent should change his or her mind about the adoption after signing the consent to adoption, the parent may withdraw the consent before the adoption is granted by the court and the child will be returned to the parent.
- (L) The parent remains legally responsible for the child until the adoption is granted by the court. The agency will notify the parent if the child is not adopted by the petitioners to determine the parent's further plans for the child. The parent must keep the agency informed of his or her address.

(M) The parent has received enough information about the petitioners and about the child's adjustment in the petitioners' family and wishes to proceed with signing the consent to adoption.

(N) After the court grants the adoption the parent will no longer be the child's legal parent, which means:

1. The parent will no longer be responsible for the care of the child.
2. The petitioners will be the legal parents and will be legally responsible for caring for the child.
3. The parent will no longer have any right to the custody, services or earnings of the child.

(O) The parent will be notified if any other parent asks to take back his/her consent and of any court proceedings because he/she is asking to take back the consent.

1. The parent is responsible for keeping his/her name and address current with the agency so that notice can be given.

(P) If there is court action to terminate parental rights, the agency shall notify the child's tribe and the tribe may intervene in the proceedings.

(Q) Upon petition of either parent or the child's tribe, court proceedings to terminate parental rights will be transferred to the jurisdiction of the tribal court, provided:

1. The child's tribe has a court with jurisdiction to hear child custody proceedings.

2. The California court finds no good cause not to transfer the proceeding to the Indian tribe,

3. No other parent objects, and

4. The tribe does not decline the transfer.

(R) The adoption agency will take the necessary steps to obtain a Certificate of Degree of Indian Blood for the child and may enroll the child in his/her tribe or register him/her for any Bureau of Indian Affairs benefits that he/she may be able to get.

(S) The agency is required to give the parent all known information about the status of the child's adoption including the approximate date the adoption was completed and if the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered.

(T) The agency shall notify the parent if the adoption petition is withdrawn, dismissed, or denied or if the adoption is set aside.

1. The parent is responsible for keeping his/her name and address current with the agency so that notice can be given.

(U) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.

1. The adoption of an Indian child terminates inheritance from the biological parents or blood relatives to the child; however, any rights or benefits the child has or may be eligible for as a result of his/her status as an Indian are unaffected. See Subchapter 8.

- (V) After the child has been legally adopted, the parent cannot reclaim the child.
- (W) The agency cannot release any identifying information about the parent unless:
1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or
 2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among these persons in accordance with Civil Code Section 230.6, or

HANDBOOK

- (i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).
3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

HANDBOOK

- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).

(X) Information regarding the adoption may be released as follows:

1. The adopted child who has reached age 18 may request and receive from the court which granted the adoption information regarding the tribal affiliation of the birth parent and any other information necessary to protect any rights the adopted child may have with regard to his/her tribal relationship.
2. The court granting the adoption will release to the Secretary of the Interior information concerning the adoption and the child, the adoptive parents, the birth parents, and the agency having information concerning the adoptive placement. The parent who desires anonymity must file an affidavit requesting anonymity with the court. The ICWA requires the Secretary of the Interior to ensure that confidentiality will be maintained; however, tribes do not always maintain confidentiality if they know of the adoption.
3. At the request of the adopted child over age 18, the adoptive parents or the Indian tribe, the Secretary of the Interior will release the information provided by the court to the extent necessary to enroll the adopted person in the tribe or to determine any rights or benefits associated with tribal membership. If the parent submitted an affidavit to the court requesting anonymity, the Secretary will certify, where information warrants, that the child is entitled to enrollment rather than release the information.
4. Upon request of the Bureau of Indian Affairs or an adopted child who has reached age 18, the department will make a copy of all documents pertaining to the degree of Indian blood and tribal enrollment available to the requestor.

- (Y) The parent will be able, at any time, to add information about him or herself to the agency's adoption record.
- (Z) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.
- (AA) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the consent is obtained through fraud or duress.
- (BB) The parent may petition the court to invalidate any action terminating parental rights if termination procedures did not comply with the ICWA.
- (CC) The parent has considered the reasons for consenting to or not consenting to the adoption of the child and has decided that to consent to adoption of the child by the petitioners is in the best interest of the child.
- (DD) The Statement of Understanding for the parent who gave physical custody of the child subject to the provisions of the ICWA is the AD 900 (3/90).
- (2) For the parent who did not give physical custody of the child to the adopting parents:

 - (A) The parent has carefully considered the reasons for consenting to the adoption of the child by the petitioners.
 - (B) The statements required by subsections 35095.2(b)(1)(C) through (I).
 - (C) If the parent does not sign the consent to adoption the parent may request the right to physical custody of the child in court. The parent probably will need an attorney to help him or her do this.
 - (D) The statements required by subsections 35095.2(b)(1)(K), (L), (M), (N), (O), (P), (Q), (R), (S), (T), (U), (V), (W), (X), (Y), (Z), (AA), (BB) and (CC).

(E) The Statement of Understanding for the legal parent who did not give physical custody of the child subject to the provisions of the ICWA is the AD 900A (3/90).

(3) For the alleged natural father:

(A) He has carefully considered the reasons for consenting to the adoption of the child by the petitioners.

(B) The statements required by subsections 35095.2(b)(1)(C), (D) and (E).

(C) He has been told why he is considered to be the alleged natural father of the child and he can deny paternity, waive his rights to further notice of the adoption proceedings, sign a consent to adoption or file a petition to establish the father and child relationship.

(D) The statements required by subsections 35095.2(b)(1)(F) and (G).

(E) He can take court action to establish the father and child relationship and request the right to physical custody of the child.

1. He has the right to seek legal counsel to assist in establishing the father and child relationship and in obtaining the right to physical custody of the child and the adoption agency can refer him to public legal assistance in the community.

(F) He understands that if he does not sign the Statement of Understanding and consent to adoption, the petitioners can petition the court to terminate his parental rights.

1. He has the right to look for a lawyer to help him argue against this; and

2. The adoption agency can refer him to public legal help in his community.

(G) If he is successful in establishing the father and child relationship and obtaining the right to physical custody of the child he may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters.

1. The agency will make a referral to the appropriate resource.

(H) The statements required by subsections 35095.2(b)(1)(K), (L), (M), (N), (O), (P), (Q), (R), (S), (T), (U), (V), (W), (X), (Y), (Z), (AA), (BB) and (CC).

(I) The Statement of Understanding for alleged natural father of a child subject to the provisions of the ICWA is the AD 900B (3/90).

Authority Cited: Sections 227 and 230.8, Civil Code; and Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 197, 221, 222, 224, 224a, 224o, 224q, 224s, 224t, 224v, 225m, 226a, 226b, 226.1, 226.5, 227, 227aaa, 227b, 228, 229, 230.6, 230.8, 1798.24(r), 1798.24(s), 7001, 7002, 7003, 7004, 7017, 7017.2, Civil Code; Section 621, Evidence Code; Section 6408.5, Probate Code; and 25 U.S.C. Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917.

Amend Section 35111 to read:

35111 PROCEDURES FOR ACCEPTING OUT-OF-STATE CONSENTS 35111
 NOT INITIATED BY THE AGENCY

(a) If a parent is in another state and the request for consent was not initiated by the agency, the consent shall be accepted when the following conditions are met: (Continued)

(3) The parent has signed the Statement of Understanding form after having:

(A) Affirmed his/her understanding of the consent process by reading and initialing each explanatory statement on the Statement of Understanding form.

(4) The signature on the Statement of Understanding form has been notarized.

(5) The Statement of Understanding for the parent whose child is not subject to the Indian Child Welfare Act (ICWA) is Section 35095.1 and the Statement of Understanding for the parent whose child is subject to the ICWA is Section 35095.2.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 226.1, Civil Code.

Amend Section 35113 to read:

35113 PROCEDURES FOR ACCEPTING OUT-OF-STATE CONSENTS 35113
 WHICH ARE INITIATED BY THE AGENCY

- (a) In the event that an agency initiates a consent that is to be signed in another state, the agency shall attempt to utilize the services of an authorized agency in the other state to provide the services to the consenting parent that the California agency would provide if the parent was in California.

(1) (Continued)

(2) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and
 Institutions Code.

Reference: Section 10553(e), Welfare and Institutions
 Code; and Sections 226.1 and 226.2, Civil Code.

Adopt new Sub Chapter heading to read:

Sub Chapter 5 PROCEDURES FOR AGENCY ADOPTIONS

Adopt new Article 1. to read:

ARTICLE 1. PROCEDURES PRIOR TO ACCEPTING A RELINQUISHMENT

Adopt Section 35129 to read:

35129 NUMBER OF INTERVIEWS FOR PARENTS CONSIDERING 35129
RELINQUISHMENT

- (a) The agency shall provide a minimum of two face-to-face interviews with parents who are considering relinquishment and who reside in California.
- (1) The required interviews shall be provided over a period of two or more days.
- (2) The agency shall provide the relinquishing parent with a sample copy of the relinquishment document and the Statement of Understanding at the first interview for their review.
- (23) During the interview the agency shall explain to the parent the purpose of the agency and the services it provides.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code.

Adopt Section 35131 to read:

35131 PRIOR TO ACCEPTING RELINQUISHMENT FOR CHILDREN 35131
UNDER THE ICWA

(a) Prior to accepting the parent's relinquishment of the child who comes within the provisions of the ICWA the agency shall:

(1) Provide counseling services as appropriate to the category of parent as described at Section 35134.

(2) Provide additional services as set forth at Section 35369.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code

Reference: Section 224m, Civil Code and 25 U.S.C. Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917.

Adopt Section 35133 to read:

35133 COUNSELING PRIOR TO ACCEPTING THE RELINQUISHMENT 35133

- (a) Prior to accepting the parent's relinquishment of the child for adoption, the agency shall provide counseling as appropriate to the category of parents as described at Section 35134 who reside in California.

HANDBOOK

- (1) Legal residence is not required.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code.

Adopt Section 35134 to read:

35134 CATEGORY OF PARENT AND COUNSELING SERVICES

35134

(a) To a mother or a presumed father who has a legal right to physical custody of the child the agency shall:

(1) (Reserved)

HANDBOOK

(1) The mother or presumed father who has been deprived of physical custody of the child by a juvenile court order can petition the juvenile court to obtain physical custody of the child. If he/she is successful, the agency cannot proceed with adoption planning.

(2) Inform the parent that he/she has the right to seek legal counsel to assist him/her in the relinquishment process:

(A) When appropriate the agency shall make referral to:

1. Legal resources including lawyer referral services,
2. Legal aid offices, or
3. Other known public legal assistance.

(3) Provide all available information regarding alternative plans for the child, with a complete description of each alternative, including keeping the child, placement with extended family members, and/or foster care and reunification services.

(A) Reunification services are those services described at Manual of Policies and Procedures, Division 30, Section 30-300.

(4) Inform the parent of at least the following resources and make a referral when appropriate:

(A) Financial resources.

1. The agency staff shall assist a parent in understanding the right to apply for public assistance, and shall cooperate with the public social service department staff in order to establish eligibility for aid.

HANDBOOK

- (i) Financial resources may include Aid to Families with Dependent Children and Supplemental Security Income/State Supplementary Program.

(B) Employment resources.

HANDBOOK

1. Employment resources may include private and public vocational training and Employment Development Department services.

(C) Educational resources.

HANDBOOK

1. Educational resources may include continuing education and General Equivalency Diploma programs.

(D) Child care resources.

HANDBOOK

1. Child care resources may include licensed family day care and child care centers.

(E) Housing resources.

HANDBOOK

1. Housing resources may include government subsidized or other low-cost housing.

(F) Health service resources.

HANDBOOK

1. Health service resources may include well baby clinics, Child Health and Disability Prevention Programs, California Children's Services, Medi-Cal and other public community resources which provide medical and dental care.
- (5) Provide counseling services as needed to assist the parent with his/her feelings regarding the child and the long-range implications of relinquishing the child for adoption.
- (6) Advise the parent of the option of an independent adoption.
- (7) Advise the parent regarding the extent to which the agency will or will not allow his/her participation in the selection of the adoptive family.
- (8) Ensure that the parent is informed of and has indicated that he/she understands the meaning and legal effects of relinquishment and his/her legal rights in relation to the relinquishment process, including his/her options other than relinquishment as set forth in Sections 35147(b)(1) and 35148(b)(1) and procedures for revocation and rescission of the relinquishment as set forth in Subchapter 5, Article 3.
- (9) Advise the parent of the confidentiality of adoption records, what type of information is available to the parent and to the child before and after the adoption is final and the process to waive confidentiality.

HANDBOOK

- (A) Refer to Subchapter 3, Article 3 for release of information.
- (b) To a mother or a presumed father who has been deprived of physical custody of the child by juvenile court order and has not received family maintenance or family reunification services the agency shall:

- (1) (Reserved)

HANDBOOK

- (1) The mother or presumed father who has been deprived of physical custody of the child by a juvenile court order and has not received family maintenance or family reunification services per Welfare and Institutions Code Sections 16501.1(b) and 16501.2 can petition the juvenile court to obtain physical custody of the child. If he/she is successful and wants to relinquish, the agency must proceed pursuant to the requirements of Section 35134(a).
- (2) Inform the parent that he/she has the right to seek legal counsel to assist him/her in the relinquishment process.
- (A) When appropriate the agency shall make referral to:
1. Legal resources including lawyer referral services,
2. Legal aid offices, or
3. Other known public legal assistance.
- (3) Discuss with the parent his/her legal rights to and responsibilities for the child and determine whether he/she wishes to resume responsibility for parenting the child.
- (4) Inform the parent who has indicated he/she wishes to resume responsibility for parenting the child of:
- (A) His/her right to seek legal counsel to obtain physical custody of the child and discuss services available to help him/her parent the child if he/she is successful.
- (B) All available information regarding alternative plans for the child with a complete description of each alternative that is available if he/she is successful in obtaining physical custody including keeping the child, placement with extended family members, and/or foster care and reunification services.

(C) At least the following resources and that referral will be made when appropriate if he/she is successful in obtaining physical custody of the child:

1. Financial resources.

HANDBOOK

- (i) Financial resources may include Aid to Families with Dependent Children and Supplemental Security Income/State Supplementary Program.
- (ii) The agency staff shall assist a parent in understanding the right to apply for public assistance, and shall cooperate with the public social service department staff in order to establish eligibility for aid.

2. Employment resources.

HANDBOOK

- (i) Employment resources may include private and public vocational training and Employment Development Department services.

3. Educational resources.

HANDBOOK

- (i) Educational resources may include continuing education and General Equivalency Diploma programs.

4. Child care resources.

HANDBOOK

- (i) Child care resources may include licensed family day care and child care centers.

5. Housing resources.

HANDBOOK

- (i) Housing resources may include government subsidized or other low-cost housing.

6. Health service resources.

HANDBOOK

- (i) Health service resources may include well baby clinics, Child Health and Disability Prevention Programs, California Children's Services, Medi-Cal and other public community resources which provide medical and dental care.

(D) His/her option of consenting to an independent adoption if he/she is successful in obtaining physical custody.

- (5) Provide counseling services, as needed, to assist the parent with his/her feelings regarding the child and the long-range implications of relinquishing the child for adoption.
- (6) Advise the parent regarding the extent to which the agency will or will not allow his/her participation in the selection of the adoptive family.
- (7) Ensure that the parent is informed of and has indicated that he/she understands the meaning and legal effects of relinquishment and his/her legal rights in relation to the relinquishment process, including his/her options other than relinquishment as set forth in Sections 35147(b)(2) and 35148(b)(2) and procedures for revocation and rescission of the relinquishment as set forth in Subchapter 5, Article 3.
- (8) Advise the parent of the confidentiality of adoption records, what type of information is available to the parent and to the child before and after the adoption is final and the process to waive confidentiality.

HANDBOOK

- (A) Refer to Subchapter 3, Article 3 for release of information.

- (c) To a mother or a presumed father who has been deprived of physical custody and who has received family maintenance and/or family reunification services and whose child has been referred by the juvenile court to the permanency planning program with a plan of adoption the agency shall:

(1) (Reserved)

HANDBOOK

- (1) Emphasis on counseling services to this category of parent is to ensure that the parent understands the significance and finality of relinquishment and that the relinquishment is signed voluntarily. When the juvenile court has ordered the plan of adoption for the child after a permanency planning hearing, the parent has a right to relinquish the child. He/she also has a right not to relinquish the child and to force the agency take legal action to attempt to terminate parental rights, which action can be contested and appealed by the parent. This parent cannot be assured of further services once the permanency planning hearing is held and the plan of adoption is ordered by the juvenile court. Therefore to offer and/or discuss services available to help the parent "keep" the child is inappropriate for this category of parent.
- (2) Inform the parent that he/she has the right to seek legal counsel to assist him/her in the relinquishment process.
- (A) When appropriate the agency shall make referral to:
1. Legal resources including lawyer referral services,
2. Legal aid offices, or
3. Other known public legal assistance.
- (3) Ensure that the parent is informed of and has indicated that he/she understands the meaning and legal effects of relinquishment and his/her legal rights in relation to the relinquishment process, including his/her options other than relinquishment, as set forth in Sections 35147(b)(3) or 35148(b)(3) and procedures for revocation and rescission of the relinquishment as set forth in Subchapter 5, Article 3.

- (4) Inform the parent of the following:
- (A) Any terms or conditions contained in court orders resulting from juvenile court hearings.
 - (B) The agency's plan for the adoption of the child.
 - (C) The extent to which the agency will or will not allow their participation in the selection of the adoptive family.
- (5) Advise the parent of the confidentiality of adoption records, what type of information is available to the parent and to the child before and after the adoption is final and the process to waive confidentiality.

HANDBOOK

- (A) Refer to Subchapter 3, Article 3 for release of information.
- (d) To a presumed father who states verbally or in writing that he is not the father of the child the agency shall:
- (1) Counsel him on the following in addition to those services listed at Sections 35134(a), (b), or (c) as appropriate:
 - (A) Why he is presumed, by law, to be the father of the child.

HANDBOOK

1. Refer to Section 35029(c) for the discussion of a presumed father.
- (e) To an alleged natural father whose identity and location are known the agency shall:
- (1) Explain to him why he is considered to be the alleged natural father and that he may:
 - (A) File a petition with the court to establish paternity,
 - (B) Deny paternity,
 - (C) Waive his rights to further notice of the adoption proceedings, or

- (D) Sign a relinquishment.
- (2) Inform him that he has the right to seek legal counsel to assist him in the relinquishment process.
- (A) When appropriate the agency shall make referral to:
1. Legal resources including lawyer referral services,
 2. Legal aid offices, or
 3. Other known public legal assistance.
- (3) Discuss the adoption plan for the child and determine if he wants to relinquish the child, assume parental responsibility for the child, place the child with extended family members, place the child in foster care and/or receive reunification services.
- (4) Discuss the financial, health, and social service resources available if he wishes to consider assuming parental responsibility for the child.
- (5) Discuss the meaning of relinquishment and its legal effects as set forth in Section 35147(a)(4) and procedures for revocation and rescission of the relinquishment as set forth at Subchapter 5, Article 3.
- (6) Provide counseling services, as needed, to assist him with his feelings about the child and the long range implications of relinquishing the child for adoption.
- (7) Discuss the extent to which the agency will or will not allow him to participate in the selection of the adoptive family.
- (8) Explain that the agency may petition for termination of his parental rights and that he has the right to seek legal counsel to contest and appeal any such action taken by the agency.
- (9) Advise him of the confidentiality of adoption records, what type of information is available to the parent and to the child before and after the adoption is final and the process to waive confidentiality.

HANDBOOK

- (A) Refer to Subchapter 3, Article 3 for release of information.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 224m, 224n, 224s, 224t, 224v, 1798.24(r), (s), and 7017, Civil Code; Section 10850(b), Welfare and Institutions Code; and Section 10439, Health and Safety Code.

Adopt Section 35135 to read:

35135 AGENCY DETERMINATIONS PRIOR TO ACCEPTING A
RELINQUISHMENT

35135

(a) Prior to accepting the parent's relinquishment of a child for adoption, the agency shall determine:

(1) That the parent has chosen the plan of adoption for the child and freely chooses to relinquish the child.

(2) That the agency is able to place the child for adoption.

(3) Whether the child is subject to the provisions of the ICWA.

(A) If the child is subject to the provisions of the ICWA, the agency shall inform the parents of the provisions of the ICWA as set forth in Subchapter 8.

(B) (Reserved)

HANDBOOK

(B) Refer to Section 35357 regarding obtaining information from the birth parents of a child of Indian heritage.

(C) Provide additional services as set forth at Section 35134.

(4) That the parent, if residing in California, has received required counseling as appropriate to the category of parents commencing with Section 35134.

HANDBOOK

(A) Legal residence is not required.

(5) That the parent has the ability to understand the content, nature and effect of signing the relinquishment.

(A) If the agency representative's observation or knowledge of the parent's history or current condition indicates that the parent may not have the ability to understand the content, nature, and effect of signing the relinquishment, the agency representative shall refer the parent to a licensed physician or to a licensed clinical psychologist for an evaluation of the parent's ability to understand prior to accepting the parent's signature on the relinquishment.

1. An evaluation is indicated under, but not limited to, the following circumstances:

(i) The parent is receiving SSI/SSP for mental illness or developmental disability.

(ii) The parent has received psychiatric treatment and/or medication for mental illness or disease within the past two years.

2. The agency shall obtain a written authorization from the parent for release of the evaluation.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code.

Adopt Section 35137 to read:

35137 ACCEPTING A RELINQUISHMENT AFTER EVALUATION

35137

(a) The agency shall accept the relinquishment:

- (1) Only if the evaluation required at Section 35135(a)(5)(A) establishes the parent's ability to understand the content, nature, and effect of signing the relinquishment.
- (2) No later than 30 days after the evaluation required at Section 35135(a)(5)(A) is completed.
- (3) From a parent for whom the court has appointed a conservator only if the order of conservatorship specifically allows the parent to relinquish his/her child for adoption and the evaluation required at Section 35135(a)(5)(A) establishes the parent's ability to understand the content, nature, and effect of relinquishing the child to the agency for adoption.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code.

Adopt Section 35139 to read:

35139 ACCEPTING THE RELINQUISHMENT OF A NEWBORN NOT
SUBJECT TO THE ICWA

35139

(a) (Reserved)

HANDBOOK

(a) Refer to Section 35375(a) regarding acceptance of relinquishment of children subject to the ICWA.

(b) The agency shall accept a relinquishment from the parent of a child not subject to the ICWA only after the child is born.

(1) The agency shall accept the mother's relinquishment of a newborn only after she has been medically discharged from the hospital; unless the mother's hospitalization after delivery is extended beyond five days.

(A) The agency shall be permitted to accept the mother's relinquishment of the newborn while the mother is hospitalized after obtaining a written statement from the attending physician that the mother is not suffering from a known physical or mental impairment which would preclude the mother's ability to relinquish the child for adoption.

Authority Cited: Section 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, of the Civil Code.

Adopt Section 35141 to read:

35141 FILING OPTIONS FOR THE RELINQUISHING PARENT

35141

(a) The agency representative shall inform all parents:

(1) Of the time frame options for the filing of the signed relinquishment form with the department.

(A) The parent shall be permitted to request that the signed relinquishment form be filed without a holding period.

(B) The parent shall be permitted to have the signed relinquishment form held for a specified period of up to 30 days before the agency submits it to the department for filing.

(2) That the signed relinquishment form will be held more than 30 days if questions about the right of any other parent to the legal custody of the child have not been resolved.

(A) The parent and the agency shall mutually agree in writing to the extended period.

1. The written agreement shall specify the time period the relinquishment form will be held and the reason for holding the form more than 30 days.

2. If the specific number of days cannot be stated in advance, the extended period shall end with the resolution of all other parents' rights to the legal custody of the child as follows:

(i) The agency shall inform the relinquishing parent in writing within three working days of the agency's knowledge of the resolution of the custody issues.

(ii) The extended period shall end five working days after the date of the notice to the relinquishing parent.

3. The written agreement to extend the holding period to more than 30 days shall be signed by the parent and the agency's representative.
- (3) That the parent is permitted to revoke his/her relinquishment at any time prior to the expiration of any holding period and at any time before the relinquishment form is filed by the department.
- (A) If the last day of any such holding period falls on a weekend or legal holiday, the agency shall permit the parent to revoke the relinquishment on the next working day following the weekend or holiday.
- (4) That the agency shall not place the child for adoption prior to the relinquishment form being filed by the department.

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- (5) Refer to Subchapter 5, Article 3 regarding revocation procedures.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code.

Adopt new Article 2. to read:

ARTICLE 2. COMPLETING AND SUBMITTING THE RELINQUISHMENT FORM

Adopt Section 35143 to read:

35143 RELINQUISHMENT FORM PROVIDED A BY THE DEPARTMENT 35143

- (a) Providing all other requirements are met, the agency shall only accept a relinquishment on forms provided by the department.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code.

Adopt Section 35145 to read:

35145 IDENTIFYING INFORMATION ON THE RELINQUISHMENT DOCUMENT 35145

(a) The relinquishment document shall provide for identification of:

(1) The child's:

(A) Name as identified on the birth certificate

1. Any discrepancy between the name of the child on the relinquishment form and on the birth certificate shall be clarified by an affidavit, signed by the authorized representative of the agency who accepted the relinquishment of the child.

(i) The affidavit shall be filed with the court when the court report and relinquishment form are filed.

(ii) A copy of the affidavit shall be sent to the department when the certified copy of the relinquishment form is filed.

(B) Sex

(C) Birthdate

(D) Place of birth.

(2) The name of the relinquishing parent.

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(A) The name of the parent includes all aliases used by the parent in legal transactions; e.g., the name on his/her driver's license, welfare check, social security card, veteran's or military documents and any other names by which the parent is known.

(3) The agency's name, address, and telephone number.

(b) The relinquishment document is:

- (1) AD501 (8-82) Natural Mother and/or Presumed Father
- (2) CAS5 (2-82) Natural Mother and/or Presumed Father
- (3) AD501A (8-85) Natural Mother and/or Presumed Father-Out of State
- (4) CAS4 (2-82) Natural Mother and/or Presumed Father-Out of State
- (5) AD503 (2-82) Natural Mother and/or Presumed Father-Out of County
- (6) CAS6 (2-82) Natural Mother and/or Presumed Father-Out of County
- (7) AD504 (2-82) Natural Mother and/or Presumed Father-Out of State-Armed Forces
- (8) CAS3 (2-82) Natural Mother and/or Presumed Father-Out of State-Armed Forces
- (9) AD583 (2-82)) Presumed Father Denies Paternity-Out of County
- (10) CAS7 (2-82) Presumed Father Denies Paternity-Out of County
- (11) AD584 (2-82) Presumed Father Denies Paternity-Out of State
- (12) CAS8 (2-82) Presumed Father Denies Paternity-Out of State
- (13) AD585 (12-86) Presumed Father Denies Paternity
- (14) CAS9 (11-88) Presumed Father Denies Paternity
- (15) AD586 (11-82) Alleged Natural Father-In California-In/Out of County
- (16) CAS841 (3-82) Alleged Natural Father-In California-In/Out of County
- (17) AD588 (7-78) Denial of Paternity by Alleged Natural Father-In/Out of State
- (18) AD590 (7-86) Alleged Natural Father-Waiver of Right to Further Notice-In/Out of State

- (19) AD591 (10-82) Alleged Natural Father-Out of State/Country
- (20) CAS839 (6-89) Alleged Natural Father-Out of State/Country
- (21) AD593 (2-82) Alleged Natural Father-Out of State-Armed Forces
- (22) CAS840 (6-89) Alleged Natural Father-Out of State-Armed Forces
- (23) AD862 (2-82) Alleged Natural Father of Indian Child-Out of State/Country
- (24) CAS863 (2-82) Alleged Natural Father of Indian Child-Out of State/Country
- (25) AD863 (2-82) Natural Mother and/or Presumed Father of Indian Child-Out of State
- (26) CAS868 (2-82) Natural Mother and/or Presumed Father of Indian Child-Out of State
- (27) AD864 (2-82) Natural Mother and/or Presumed Father of Indian Child
- (28) CAS864 (2-82) Natural Mother and/or Presumed Father of Indian Child
- (29) AD865 (2-82) Natural Mother and/or Presumed Father of Indian Child-Out of County
- (30) CAS865 (2-82) Natural Mother and/or Presumed Father of Indian Child-Out of County
- (31) AD866 (2-82) Presumed Father of Indian Child Denies Paternity
- (32) CAS861 (2-82) Presumed Father of Indian Child Denies Paternity
- (33) AD867 (2-82) Presumed Father of Indian Child Denies Paternity-Out of State
- (34) CAS862 (2-82) Presumed Father of Indian Child Denies Paternity-Out of State
- (35) AD868 (2-82) Alleged Natural Father of Indian Child
- (36) CAS867 (2-82) Alleged Natural Father of Indian Child

(37) AD873 (2-82) Presumed Father of Indian Child Denies
Paternity-Out of County

(38) CAS866 (2-82) Presumed Father of Indian Child Denies
Paternity-Out of County.

Authority Cited: Section 10553 and 10554, Welfare and
Institutions Code.

Reference: Section 224m, Civil Code.

Adopt Section 35147 to read:

35147 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE 35147
CHILD IS NOT SUBJECT TO THE ICWA

(a) (Reserved)

HANDBOOK

(a) Refer to Section 35148 for the Statement of Understanding for the parent whose child is subject to the ICWA.

(b) In addition to the filing options described in Section 35141, the Statement of Understanding shall contain statements which summarize the following:

(1) For a mother or a presumed father who has a legal right to physical custody of the child:

(A) and (B) (Reserved)

HANDBOOK

(A) Refer to Section 35134(a) for required counseling to be provided by the agency to this category of mother and presumed father.

(B) Refer to Section 35134(d) for required counseling to be provided by the agency to a presumed father who denies paternity.

1. Presumed fathers who deny paternity have the same rights as any other category of presumed father and must be treated accordingly.

(C) The parent has the right to seek legal counsel to assist in the relinquishment process and the agency can refer the parent to public legal assistance in the community.

(D) The parent may talk about the plan to relinquish the child with other professionals and with family and friends.

(E) Even if the presumed father states verbally or in writing he is not the parent of the child, he is a presumed father under the law and he has legal rights and responsibilities with respect to the child.

- (F) Relinquishment means giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent.
- (G) The parent may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters if uncertain about relinquishing the child.
1. The agency will make a referral to the appropriate resource.
- (H) The parent has considered the reasons for relinquishing or not relinquishing the child and has decided relinquishing the child to the agency for adoption is in the best interest of the child.
- (I) A parent who relinquishes a child gives up the right to select adoptive parents.

HANDBOOK

1. Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.
- (J) The parent who chooses not to relinquish the child may arrange for the child's adoption by independently choosing adoptive parents, placing the child with them, and consenting to their adoption of the child.
- (K) Relinquishment terminates the parent's rights to the custody, services, and earnings of the child.
- (L) Relinquishment terminates the parent's responsibility for the care of the child.

- (M) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.
- (N) The parent may revoke the signed relinquishment during any holding period and before it is filed by the department and the agency will return the child to his/her custody.
1. Under normal circumstances, the child will be given to the parent within three working days, and in no case shall it require more than seven calendar days.
 2. The rights and responsibilities as the child's parent continue unless terminated by other legal action.
 3. If return of the child would place the child in imminent danger of neglect, cruelty, depravity, or physical abuse, the agency shall make an immediate referral to the county's children's protective services agency.
 - (i) The agency shall inform the parent in writing a referral has been made to the county's child protective services agency.
- (O) A relinquishment shall be final when it is filed by the department and may be rescinded only if the agency agrees.
1. If the decision is to not rescind, the agency shall inform the parent in writing of the reasons for its decision.
 2. If the decision is to rescind, the rights and responsibilities as the child's parent continue unless terminated by other legal action.
 - (i) Under normal circumstances, the child will be given to the parent within three working days, and in no case shall it require more than seven calendar days.

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3. See Subchapter 5, Article 3 regarding revocation and rescission procedures.

(P) The agency is required to give the parent all known information about the status of the child's adoption including whether the child has been placed for adoption, the approximate date the adoption was completed and, if the adoption was not completed or was vacated for any reason, whether adoptive placement of the child is again being considered.

1. The parent must keep the agency informed of his/her current whereabouts if he/she wants to know when the child is placed in an adoptive home and when the child is legally adopted.

(Q) After the child has been legally adopted the agency cannot return the child to the parent.

(R) The agency cannot release any identifying information about the parent unless:

1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or
2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among these persons in accordance with Civil Code Section 230.6, or

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- (i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).

3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or

4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

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- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).
- (S) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.
- (T) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the relinquishment is obtained through fraud or duress.
- (U) The Statement of Understanding for a mother or presumed father who has a legal right to physical custody of the child and whose child is not subject to the provisions of the ICWA is the AD 885 (3/90).
- (2) For a mother or a presumed father who has been deprived of physical custody of the child by juvenile court order and has not received family maintenance or family reunification services:

(A) and (B) (Reserved)

HANDBOOK

(A) Refer to Section 35134(b) for required counseling to be provided by the agency to this category of mother and presumed father.

(B) Refer to Section 35134(d) for required counseling to be provided by the agency to a presumed father who denies paternity.

1. Presumed fathers who deny paternity have the same rights as any other category of presumed father and must be treated accordingly.

(C) The parent has the right to seek legal counsel to assist in the relinquishment process and the agency can refer the parent to public legal assistance in the community.

(D) The parent may talk about the plan to relinquish the child with other professionals and with family and friends.

(E) Even if the presumed father states verbally or in writing he is not the parent of the child, he is a presumed father under the law and he has legal rights and responsibilities with respect to the child.

(F) Relinquishment means giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent.

(G) The parent has considered the reasons for relinquishing or not relinquishing the child and has decided relinquishing the child to the agency for adoption is in the best interest of the child.

(H) A parent who relinquishes a child gives up the right to select adoptive parents.

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1. Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.

(I) If the parent regains the right to physical custody of the child, the agency shall give the child to the parent pursuant to the court order.

1. Under normal circumstances the child will be given to the parent within three working days and in no case shall it require more than seven calendar days.
2. If the return of the child will place the child in imminent danger of neglect, cruelty, depravity or physical abuse, the agency shall make an immediate referral to the county's children's protective services.

(i) The agency shall inform the parent in writing a referral has been made to the county's child protective services agency.

(J) If the parent regains the right to physical custody of his/her child and chooses not to relinquish the child to the agency he/she may arrange for the child's adoption by independently choosing adoptive parents, placing the child with them and consenting to their adoption of the child.

(K) Relinquishment terminates the parent's rights to the custody, services, and earnings of the child.

(L) Relinquishment terminates the parent's responsibility for the care of the child.

- (M) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.
- (N) The parent may revoke the signed relinquishment during any holding period and before it is filed by the department.
1. The rights and responsibilities as the child's parent continue unless terminated by other legal action.
 2. The child will remain a juvenile court dependent and any terms and/or conditions which result from the child's status as a juvenile court dependent remain in effect.
 - (i) The agency shall immediately refer the child back to the county welfare department.
- (O) A relinquishment shall be final when it is filed by the department and may be rescinded only if the agency agrees.
1. If the decision is to not rescind, the agency shall inform the parent in writing of the reasons for its decision.
 2. If the decision is to rescind, the child will remain a juvenile court dependent and any terms and/or conditions which result from the child's status as a juvenile court dependent remain in effect.
 - (i) The agency shall immediately refer the child back to the county welfare department.

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- (ii) See Subchapter 5, Article 3 for revocation and rescission procedures.
- (P) If the parent wants the right to physical custody of the child returned, he/she must obtain a juvenile court order granting him/her physical custody of the child.

1. The parent has the right to seek legal counsel to assist in obtaining physical custody of the child and the adoption agency can refer the parent to public legal assistance in the community.
- (Q) If the parent is successful in obtaining the right to physical custody of the child, the parent may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters.
1. The agency will make a referral to the appropriate resource.
- (R) The agency is required to give the parent all known information about the status of the child's adoption including whether the child has been placed for adoption, the approximate date the adoption was completed and, if the adoption was not completed or was vacated for any reason, whether adoptive placement of the child is again being considered.
1. The parent must keep the agency informed of his/her current whereabouts if he/she wants to know when the child is placed in an adoptive home and when the child is legally adopted.
- (S) After the child has been legally adopted, the agency cannot return the child to the parent.
- (T) The agency cannot release any identifying information about the parent unless:
1. The welfare of the child requires the release of information to certain agencies as specified in law relating to any adoption petition, or
 2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among the persons in accordance with Civil Code Section 230.6, or

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- (i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).

- 3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
- 4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
- 5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

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- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).
- (U) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.
- (V) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the relinquishment is obtained through fraud or duress.

(W) The Statement of Understanding for a mother or presumed father who has been deprived of physical custody of the child by juvenile court order and has not received family maintenance or reunification services and whose child is not subject to the provisions of the ICWA is the AD 885A (3/90).

(3) For a mother or a presumed father who has been deprived of physical custody and has received family maintenance and/or family reunification services and whose child has been referred by the juvenile court to the permanency planning program with a plan of adoption:

(A) and (B) (Reserved)

HANDBOOK

(A) Refer to Section 35134(c) for required counseling to be provided by the agency to this category of mother and presumed father.

(B) Refer to Section 35134(d) for required counseling to be provided by the agency to a presumed father who denies paternity.

1. Presumed fathers who deny paternity have the same rights as any other category of presumed father and must be treated accordingly.

(C) The parent has the right to seek legal counsel to assist in the relinquishment process and the agency can refer the parent to public legal assistance in the community.

(D) The agency shall explain any terms or conditions in court orders resulting from juvenile court hearings.

(E) The agency shall tell the parent what their plan is for the adoption of the child.

(F) Even if the presumed father states verbally or in writing he is not the parent of the child, he is a presumed father under the law and he has legal rights and responsibilities with respect to the child.

(G) The parent may talk about the plan to relinquish the child with other professionals and with family and friends.

- (H) Relinquishment means giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent.
- (I) The parent has considered the reasons for relinquishing or not relinquishing the child and has decided relinquishing the child to the agency for adoption is in the best interest of the child.
- (J) A parent who relinquishes a child gives up the right to select adoptive parents.

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1. Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.
- (K) Relinquishment terminates the parent's rights to the custody, services, and earnings of the child.
- (L) Relinquishment terminates the parent's responsibility for the care of the child.
- (M) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.
- (N) The parent may revoke the relinquishment during any holding period and before it is filed by the department.
1. The rights and responsibilities as the child's parent continue unless terminated by other legal action.

2. The child will remain a juvenile court dependent and any terms and/or conditions which result from the child's status as a juvenile court dependent remain in effect.

(i) The agency shall immediately refer the child back to the county welfare department.

(O) A relinquishment shall be final when it is filed by the department and may be rescinded only if the agency agrees.

1. If the decision is to not rescind, the agency shall inform the parent in writing of the reasons for its decision.

2. If the decision is to rescind, the child will remain a juvenile court dependent and any terms and/or conditions which result from the child's status as a juvenile court dependent remain in effect.

(i) The agency shall immediately refer the child back to the county welfare department.

HANDBOOK

(ii) See Subchapter 5, Article 3 for revocation and rescission procedures.

(P) If the parent wants the right to physical custody of the child returned, he/she must obtain a juvenile court order granting him/her the right to physical custody of the child.

1. The parent has the right to seek legal counsel to assist in obtaining physical custody of the child and the adoption agency can refer the parent to public legal assistance in the community.

(Q) If the parent regains the right to physical custody of the child, the agency shall give the child to the parent pursuant to the court order.

1. Under normal circumstances the child will be given to the parent within three working days and in no case shall it require more than seven calendar days.

2. If the return of the child will place the child in imminent danger of neglect, cruelty, depravity or physical abuse, the agency shall make an immediate referral to the county's children's protective services.
- (i) The agency shall inform the parent in writing a referral has been made to the county's child protective services agency.
- (R) If the parent regains the right to physical custody of the child and chooses not to relinquish the child to the agency, he/she may arrange for the child's adoption by independently choosing adoptive parents, placing the child with them and consenting to their adoption.
- (S) If the parent is successful in obtaining the right to physical custody of the child, the parent may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters.
1. The agency will make a referral to the appropriate resource.
- (T) The agency is required to give the parent all known information about the status of the child's adoption including whether the child has been placed for adoption, the approximate date the adoption was completed and, if the adoption was not completed or was vacated for any reason, whether adoptive placement of the child is again being considered.
1. The parent must keep the agency informed of his/her current whereabouts if he/she wants to know when the child is placed in an adoptive home and when the child is legally adopted.
- (U) After the child has been legally adopted the agency cannot return the child.
- (V) The agency cannot release any identifying information about the parent unless:

1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or
2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among the persons in accordance with Civil Code Section 230.6, or

HANDBOOK

- (i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).
3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
4. The birth parent of an adopted person who has reached the age of 21 has requested the name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

HANDBOOK

- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).

- (W) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.
- (X) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the relinquishment is obtained through fraud or duress.
- (Y) The Statement of Understanding form for a mother or presumed father who has been deprived of physical custody and has received family maintenance and/or family reunification services and whose child has been referred by the juvenile court to the permanency planning program with a plan of adoption and whose child is not subject to the provisions of the ICWA is the AD 885B (3/90).
- (4) For an alleged natural father who relinquishes his child:
 - (A) (Reseved)

HANDBOOK

- (A) Refer to Section 35134(e) for required counseling to be provided by the agency to alleged natural fathers.
- (B) He has the right to seek legal counsel to assist him in the relinquishment process and the agency can refer him to public legal assistance in the community.
- (C) He has been told why he is considered to be the alleged natural father of the child and he can deny paternity, waive his rights to further notice of the adoption proceedings, sign a relinquishment or file a petition to establish the father and child relationship.
- (D) The agency shall tell him what their plan is for the adoption of the child.
- (E) He may talk about the plan to relinquish the child with other professionals and with family and friends.

- (F) Relinquishment means giving up the child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent.
- (G) He has considered the reasons for relinquishing or not relinquishing the child and has decided relinquishing the child to the agency for adoption is in the best interest of the child.
- (H) When he relinquishes a child he gives up the right to select adoptive parents.

HANDBOOK

1. Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.
- (I) He can take court action to establish the father and child relationship and request the right to physical custody of the child.
1. He has the right to seek legal counsel to assist in establishing the father and child relationship and in obtaining the right to physical custody of the child and the adoption agency can refer him to public legal assistance in the community.
- (J) If he is successful in establishing the father and child relationship and obtaining the right to physical custody of the child, he may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters.
1. The agency will make a referral to the appropriate resource.

- (K) If he establishes the father and child relationship in court and obtains the right to physical custody of the child and chooses not to relinquish the child to the agency he may arrange for the child's adoption independently by choosing adoptive parents, placing the child with them and consenting to their adoption of the child.
- (L) If he has established the father and child relationship and has been granted the right to physical custody of the child in court, the agency shall give him the child pursuant to the court order.
1. Under normal circumstances the child will be given to him within three working days and in no case shall it require more than seven calendar days.
 2. If the return of the child will place the child in imminent danger of neglect, cruelty, depravity or physical abuse the agency shall make an immediate referral to the county's children's protective services.
 - (i) The agency shall inform the parent in writing that a referral has been made to the county's child protective services agency.
- (M) The relinquishment terminates the parent's rights to the custody, services and earnings of the child.
- (N) Relinquishment terminates the parent's responsibility for the care of the child.
- (O) Adoption terminates any inheritance from the parents or blood relatives of the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.
- (P) He may revoke the signed relinquishment during any holding period and before it is filed by the department.
1. The rights and responsibilities as the child's alleged natural father continue unless terminated by other legal action.

- (Q) If he does not relinquish the child to the adoption agency, the agency can petition the court to terminate his parental rights.
1. He has the right to seek legal counsel to assist him and the agency can refer him to public legal assistance in the community.
- (R) A relinquishment shall be final when it is filed by the department and may be rescinded only if the agency agrees.
1. If the decision is to not rescind, the agency shall inform him in writing of the reasons for its decision.
2. If the decision is to rescind, he will have to establish the father and child relationship in court if he wishes to parent the child.

HANDBOOK

- (i) See Subchapter 5, Article 3 for revocation and rescission procedures.
- (S) The agency is required to give him all known information about the status of the child's adoption including whether the child has been placed for adoption, the approximate date the adoption was completed and, if the adoption was not completed or was vacated for any reason, whether adoptive placement of the child is again being considered.
1. He must keep the agency informed of his current whereabouts if he wants to know when the child is placed in an adoptive home and when the child is legally adopted.
- (T) After the child has been legally adopted, the agency cannot return the child.
- (U) The agency cannot release any identifying information about him unless:

1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or
2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among the persons in accordance with Civil Code Section 230.6, or

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- (i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).
3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
5. The adoptive parents of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

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- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).

- (V) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.
- (W) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the relinquishment is obtained through fraud or duress.
- (X) The Statement of Understanding form for an alleged natural father who relinquishes his child and whose child is not subject to the provisions of the ICWA is the AD 885C (3/90).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 224m, 224n, 224o, 224p, 224v, 227aaa, 227d, 228, 229, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; and Section 16507.5, Welfare and Institutions Code.

Adopt Section 35148 to read:

35148 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE 35148
CHILD IS SUBJECT TO THE ICWA

(a) (Reserved)

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(a) Refer to Section 35147 for the Statement of Understanding for the parent whose child is not subject to the ICWA.

(b) In addition to the filing options described in Section 35141, the Statement of Understanding shall contain statements which summarize the following:

(1) For a mother or a presumed father who has a legal right to physical custody of the child:

(A) (Reserved)

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(A) Refer to Section 35131 for required counseling to be provided by the agency to this category of mother and presumed father.

1. Presumed fathers who deny paternity have the same rights as any other category of presumed father and must be treated accordingly.

(B) The parent has the right to seek legal counsel to assist in the relinquishment process and the agency can refer the parent to public legal assistance in the community.

(C) Because the child has been determined to be an Indian child, the requirements of the ICWA will apply to the taking of the relinquishment and the adoption of the child.

(D) The parent may talk about the plan to relinquish the child with other professionals and with family and friends.

(E) Even if the presumed father states verbally or in writing he is not the parent of the child, he is a presumed father under the law and he has legal rights and responsibilities with respect to the child.

- (F) Relinquishment means giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent.
- (G) The parent may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters if uncertain about relinquishing the child.
1. The agency will make a referral to the appropriate resource.
- (H) The parent has considered the reasons for relinquishing or not relinquishing the child and has decided relinquishing the child to the agency for adoption is in the best interest of the child.
- (I) A parent who relinquishes a child gives up the right to select adoptive parents.

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1. Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.
- (J) The parent who chooses not to relinquish the child may arrange for the child's adoption by independently choosing adoptive parents, placing the child with them, and consenting to their adoption of the child.
- (K) Relinquishment terminates the parent's rights to the custody, services, and earnings of the child.
- (L) Relinquishment terminates the parent's responsibility for the care of the child.

- (M) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.

HANDBOOK

1. The adoption of an Indian child terminates inheritance from the biological parents or blood relatives to the child; however, any rights or benefits the child has or may be eligible for as a result of his/her status as an Indian are unaffected. See Subchapter 8.

- (N) The agency is required to give the parent all known information about the status of the child's adoption including whether the child has been placed for adoption, the approximate date the adoption was completed and, if the adoption was not completed or was vacated for any reason, whether adoptive placement of the child is again being considered.

1. The parent must keep the agency informed of his/her current whereabouts if he/she wants to know when the child is placed in an adoptive home and when the child is legally adopted.

- (O) After the child has been legally adopted the agency cannot return the child to the parent.

- (P) The agency cannot release any identifying information about the parent unless:

1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or
2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among these persons in accordance with Civil Code Section 230.6, or

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- (i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).

- 3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
- 4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
- 5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

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- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).

(Q) Information regarding the adoption may be released as follows:

- 1. The adopted child who has reached age 18 may request and receive from the court which granted the adoption information regarding the tribal affiliation of the birth parent and any other information necessary to protect any rights the adopted child may have with regard to his/her tribal relationship.

2. The court granting the adoption will release to the Secretary of the Interior information concerning the adoption and the child, the adoptive parents, the birth parents, and the agency having information concerning the adoptive placement. The parent who desires anonymity must file an affidavit requesting anonymity with the court. The ICWA requires the Secretary of the Interior to ensure confidentiality will be maintained; however, tribes do not always maintain confidentiality if they know of the adoption.

3. At the request of the adopted child over age 18, the adoptive parents or the Indian tribe, the Secretary of the Interior will release the information provided by the court to the extent necessary to enroll the adopted person in the tribe or to determine any rights or benefits associated with tribal membership. If the parent submitted an affidavit to the court requesting anonymity, the Secretary will certify, where information warrants, that the child is entitled to enrollment rather than release the information.

4. Upon request of the Bureau of Indian Affairs or an adopted child who has reached age 18, the department will make a copy of all documents pertaining to the degree of Indian blood and tribal enrollment available to the requestor.

(R) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.

(S) The relinquishment document shall be signed before a judge of the Superior Court in California, or before a court of competent jurisdiction if signed outside the state.

(T) There is a required order of placement preference as follows:

1. Someone from the child's extended family,
2. Someone from the child's tribe, or

3. Placement with another Indian family.

(U) The placement preference can be modified only by the tribe or the court.

1. The parent may request the court to modify the order of placement preference.

(V) The parent shall be permitted to revoke or rescind the relinquishment during any holding period at any time before the adoption is granted by the court.

HANDBOOK

1. See Section 35369(a)(3) regarding revocation and rescission of a relinquishment.

(W) Upon the request of a parent who gave physical custody of the child to the agency to revoke or rescind his/her relinquishment, the agency will return the child to his/her custody.

1. Under normal circumstances the child will be given to the parent within three working days and in no case shall it require more than seven calendar days.

(i) If there is a question about which parent has the right to the physical custody of the child, the agency shall initiate court action to determine which parent has a right to the physical custody of the child.

2. The rights and responsibilities as the child's parent continue unless terminated by other legal action.

3. If the return of the child would place the child in imminent danger of neglect, cruelty, depravity, or physical abuse, the agency shall make an immediate referral to the county's children's protective services agency.

- (i) The agency shall inform the parent in writing that a referral has been made to the county's child protective services agency.
- (X) The parent will be notified if any other parent revokes or rescinds his/her relinquishment and of any court proceedings resulting from the revocation or rescision.
1. The parent is responsible for keeping his/her name and address current with the agency so notice can be given.
- (Y) If there is court action to terminate parental rights, the agency shall notify the child's tribe and the tribe may intervene in the proceedings.
- (Z) The agency shall notify the parent if the adoption petition is withdrawn, dismissed, or denied or if the adoption is set aside.
1. The parent is responsible for keeping his/her name and address current with the agency so notice can be given.
- (AA) Upon petition of either parent or the child's tribe, court proceedings to terminate parental rights will be transferred to the jurisdiction of the tribal court, provided:
1. The child's tribe has a court with jurisdiction to hear child custody proceedings,
2. The California court finds no good cause not to transfer the proceeding to the Indian tribe,
3. No other parent objects, and
4. The tribe does not decline the transfer.
- (BB) The agency shall take the necessary steps to obtain a Certificate of Degree of Indian Blood for the child, to enroll the child in his/her tribe or to register him/her for any Bureau of Indian Affairs' benefits which he/she may be eligible.

- (CC) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the relinquishment is obtained through fraud or duress.
- (DD) The parent may petition the court to invalidate any action terminating parental rights if the termination procedures did not comply with the ICWA.
- (EE) The Statement of Understanding for a mother or a presumed father who has a legal right to physical custody of the child and whose child is subject to the provisions of the ICWA is the AD 899 (3/90).

(2) For a mother or a presumed father who has been deprived of physical custody of the child by juvenile court order and has not received family maintenance or family reunification services:

(A) (Reserved)

HANDBOOK

- (A) Refer to Section 35151 for required counseling to be provided by the agency to this category of mother and presumed father.
 - 1. Presumed fathers who deny paternity have the same rights as any other category of presumed father and must be treated accordingly.
- (B) The parent has the right to seek legal counsel to assist in the relinquishment process and the agency can refer the parent to public legal assistance in the community.
- (C) Because the child has been determined to be an Indian child, the requirements of the ICWA will apply to the taking of the relinquishment and the adoption of the child.
- (D) The parent may talk about the plan to relinquish the child with other professionals and with family and friends.

- (E) Even if the presumed father states verbally or in writing that he is not the parent of the child, he is a presumed father under the law and he has legal rights and responsibilities with respect to the child.
- (F) Relinquishment means giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent.
- (G) The parent has considered the reasons for relinquishing or not relinquishing the child and has decided relinquishing the child to the agency for adoption is in the best interest of the child.
- (H) A parent who relinquishes a child gives up the right to select adoptive parents.

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1. Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.
- (I) If the parent regains the right to physical custody of the child, the agency shall give the child to the parent pursuant to the court order.
1. Under normal circumstances, the child will be given to the parent within three working days and in no case shall it require more than seven calendar days.
 2. If the return of the child will place the child in imminent danger of neglect, cruelty, depravity or physical abuse the agency shall make an immediate referral to the county's children's protective services.

- (i) The agency shall inform the parent in writing a referral has been made to the county's child protective services agency.
- (J) If the parent regains the right to physical custody of his/her child and chooses not to relinquish the child to the agency he/she may arrange for the child's adoption by independently choosing adoptive parents, placing the child with them and consenting to their adoption of the child.
- (K) Relinquishment terminates the parent's rights to the custody, services, and earnings of the child.
- (L) Relinquishment terminates the parent's responsibility for the care of the child.
- (M) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.

HANDBOOK

1. The adoption of an Indian child terminates inheritance from the biological parents or blood relatives to the child; however, any rights or benefits the child has or may be eligible for as a result of his/her status as an Indian are unaffected. See Subchapter 8.
- (N) If the parent wants the right to physical custody of the child returned, he/she must obtain a juvenile court order granting him/her the right to physical custody of the child.
1. The parent has the right to seek legal counsel to assist in obtaining the right to physical custody of the child and the adoption agency can refer the parent to public legal assistance in the community.

(O) If the parent is successful in obtaining the right to physical custody of the child, the parent may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters.

1. The agency will make a referral to the appropriate resource.

(P) The agency is required to give the parent all known information about the status of the child's adoption including whether the child has been placed for adoption, the approximate date the adoption was completed and, if the adoption was not completed or was vacated for any reason, whether adoptive placement of the child is again being considered.

1. The parent must keep the agency informed of his/her current whereabouts if he/she wants to know when the child is placed in an adoptive home and when the child is legally adopted.

(Q) After the child has been legally adopted, the agency cannot return the child to the parent.

(R) The agency cannot release any identifying information about the parent unless:

1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or

2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among the persons in accordance with Civil Code Section 230.6, or

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(i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).

3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

HANDBOOK

- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).

(S) Information regarding the adoption may be released as follows:

1. The adopted child who has reached age 18 may request and receive from the court which granted the adoption information regarding the tribal affiliation of the birth parent and any other information necessary to protect any rights the adopted child may have with regard to his/her tribal relationship.

2. The court granting the adoption will release to the Secretary of the Interior information concerning the adoption and the child, the adoptive parents, the birth parents, and the agency having information concerning the adoptive placement. The parent who desires anonymity must file an affidavit requesting anonymity with the court. The ICWA requires the Secretary of the Interior to ensure confidentiality will be maintained; however, tribes do not always maintain confidentiality if they know of the adoption.
 3. At the request of the adopted child over age 18, the adoptive parents or the Indian tribe, the Secretary of the Interior will release the information provided by the court to the extent necessary to enroll the adopted person in the tribe or to determine any rights or benefits associated with tribal membership. If the parent submitted an affidavit to the court requesting anonymity, the Secretary will certify, where information warrants, that the child is entitled to enrollment rather than release the information.
 4. Upon request of the Bureau of Indian Affairs or an adopted child who has reached age 18, the department will make a copy of all documents pertaining to the degree of Indian blood and tribal enrollment available to the requestor.
- (T) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.
- (U) The relinquishment document shall be signed before a judge of the Superior Court in California, or before a court of competent jurisdiction if signed outside the state.
- (V) There is a required order of placement preference as follows:

1. Someone from the child's extended family,
2. Someone from the child's tribe, or
3. Placement with another Indian family.

(W) The placement preference can be modified only by the tribe or the court.

1. The parent may request the court to modify the order of placement preference.

(X) The parent shall be permitted to revoke or rescind the relinquishment during any holding period and at any time before the adoption is granted by the court.

1. (Reserved)

HANDBOOK

1. See Section 35369(a)(3) regarding revocation and rescission of a relinquishment.
2. The rights and responsibilities as the child's parent continue unless terminated by other legal action.
3. The child will remain a juvenile court dependent and any terms and/or conditions which result from the child's status as a juvenile court dependent remain in effect.

(i) The agency shall immediately refer the child back to the county welfare department.

(Y) If a relinquishment for adoption is revoked or rescinded by a parent who has been denied the right to physical custody of the child by a court order, the agency shall:

1. Initiate court action to determine whether the parent has a right to physical custody of the child.

2. Notify any other parents whose relinquishment has been filed by the department of the revocation or rescission of the relinquishment and of any planned court proceedings resulting from the request.
- (i) The parent is responsible for keeping his/her name and address current with the agency so notice can be given.
- (Z) If there is a court action to terminate parental rights, the agency shall notify the child's tribe and the tribe may intervene in the proceedings.
- (AA) The agency shall notify the parent if the adoption petition is withdrawn, dismissed, or denied or if the adoption is set aside.
1. The parent is responsible for keeping his/her name and address current with the agency so notice can be given.
- (BB) Upon petition of either parent or the child's tribe, court proceedings to terminate parental rights will be transferred to the jurisdiction of the tribal court, provided:
1. The child's tribe has a court with jurisdiction to hear child custody proceedings,
2. The California court finds no good cause not to transfer the proceeding to the Indian tribe,
3. No other parent objects, and
4. The tribe does not decline the transfer.
- (CC) The agency shall take the necessary steps to obtain a Certificate of Degree of Indian Blood for the child, to enroll the child in his/her tribe or to register him/her for any Bureau of Indian Affairs' benefits which he/she may be eligible.

- (DD) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the relinquishment is obtained through fraud or duress.
- (EE) The parent may petition the court to invalidate any action terminating parental rights if termination procedures did not comply with the ICWA.
- (FF) The Statement of Understanding for a mother or a presumed father who has been deprived of physical custody of the child by juvenile court order and has not received family maintenance or family reunification services and whose child is subject to the provisions of the ICWA is the AD 899B (3/90).
- (3) For a mother or a presumed father who has been deprived of physical custody and has received family maintenance and/or family reunification services and whose child has been referred by the juvenile court to the permanency planning program with a plan of adoption:

(A) (Reserved)

HANDBOOK

- (A) Refer to Section 35131 for required counseling to be provided by the agency to this category of mother and presumed father.
1. Presumed fathers who deny paternity have the same rights as any other category of presumed father and must be treated accordingly.
- (B) The parent has the right to seek legal counsel to assist in the relinquishment process and the agency can refer the parent to public legal assistance in the community.
- (C) Because the child has been determined to be an Indian child, the requirements of the ICWA will apply to the taking of the relinquishment and the adoption of the child.

- (D) The agency shall explain any terms or conditions in court orders resulting from juvenile court hearings.
- (E) The agency shall tell the parent what their plan is for the adoption of the child.
- (F) The parent may talk about the plan to relinquish the child with other professionals and with family and friends.
- (G) Even if the presumed father states verbally or in writing he is not the parent of the child, he is a presumed father under the law and he has legal rights and responsibilities with respect to the child.
- (H) Relinquishment means giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent.
- (I) The parent has considered the reasons for relinquishing or not relinquishing the child and has decided relinquishing the child to the agency for adoption is in the best interest of the child.
- (J) A parent who relinquishes a child gives up the right to select adoptive parents.

HANDBOOK

1. Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.
- (K) If the parent regains the right to physical custody of the child, the agency shall give the child to the parent pursuant to the court order.

1. Under normal circumstances, the child will be given to the parent within three working days and in no case shall it require more than seven calendar days.
 2. If the return of the child will place the child in imminent danger of neglect, cruelty, depravity or physical abuse the agency shall make an immediate referral to the county's children's protective services.
 - (i) The agency shall inform the parent in writing a referral has been made to the county's child protective services agency.
- (L) If the parent regains the right to physical custody of his/her child and chooses not to relinquish the child to the agency he/she may arrange for the child's adoption by independently choosing adoptive parents, placing the child with them and consenting to their adoption of the child.
- (M) Relinquishment terminates the parent's rights to the custody, services, and earnings of the child.
- (N) Relinquishment terminates the parent's responsibility for the care of the child.
- (O) Adoption terminates any inheritance from the parents or blood relatives to the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.

HANDBOOK

1. The adoption of an Indian child terminates inheritance from the biological parents or blood relatives to the child; however, any rights or benefits the child has or may be eligible for as a result of his/her status as an Indian are unaffected. See Subchapter 8.

- (P) If the parent wants the right to physical custody of the child returned, he/she must obtain a juvenile court order granting him/her the right to physical custody of the child.
1. The parent has the right to seek legal counsel to assist in obtaining the right to physical custody of the child and the adoption agency can refer the parent to public legal assistance in the community.
- (Q) If the parent is successful in obtaining the right to physical custody of the child, the parent may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters.
1. The agency will make a referral to the appropriate resource.
- (R) The agency is required to give the parent all known information about the status of the child's adoption including whether the child has been placed for adoption, the approximate date the adoption was completed and, if the adoption was not completed or was vacated for any reason, whether adoptive placement of the child is again being considered.
1. The parent must keep the agency informed of his/her current whereabouts if he/she wants to know when the child is placed in an adoptive home and when the child is legally adopted.
- (S) After the child has been legally adopted, the agency cannot return the child to the parent.
- (T) The agency cannot release any identifying information about the parent unless:
1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or

2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among the persons in accordance with Civil Code Section 230.6, or

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- (i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).

3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or

4. The birth parent of an adopted person who has reached the age of 21 has requested the name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or

5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

HANDBOOK

- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).

(U) Information regarding the adoption may be released as follows:

1. The adopted child who has reached age 18 may request and receive from the court which granted the adoption information regarding the tribal affiliation of the birth parent and any other information necessary to protect any rights the adopted child may have with regard to his/her tribal relationship.
2. The court granting the adoption will release to the Secretary of the Interior information concerning the adoption and the child, the adoptive parents, the birth parents, and the agency having information concerning the adoptive placement. The parent who desires anonymity must file an affidavit requesting anonymity with the court. The ICWA requires the Secretary of the Interior to ensure confidentiality will be maintained; however, tribes do not always maintain confidentiality if they know of the adoption.
3. At the request of the adopted child over age 18, the adoptive parents or the Indian tribe, the Secretary of the Interior will release the information provided by the court to the extent necessary to enroll the adopted person in the tribe or to determine any rights or benefits associated with tribal membership. If the parent submitted an affidavit to the court requesting anonymity, the Secretary will certify, where information warrants, that the child is entitled to enrollment rather than release the information.
4. Upon request of the Bureau of Indian Affairs or an adopted child who has reached age 18, the department will make a copy of all documents pertaining to the degree of Indian blood and tribal enrollment available to the requestor.

(V) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.

(W) The relinquishment document shall be signed before a judge of the Superior Court in California, or before a court of competent jurisdiction if signed outside the state.

(X) There is a required order of placement preference as follows:

1. Someone from the child's extended family,
2. Someone from the child's tribe, or
3. Placement with another Indian family.

(Y) The placement preference can be modified only by the tribe or the court.

1. The parent may request the court to modify the order of placement preference.

(Z) The parent shall be permitted to revoke or rescind the relinquishment during any holding period and at any time before the adoption is granted by the court.

1. (Reserved)

HANDBOOK

1. Refer to Section 35369(a)(3) regarding revocation and rescission of a relinquishment.

2. The rights and responsibilities as the child's parent continue unless terminated by other legal action.

3. The child will remain a juvenile court dependent and any terms and/or conditions which result from the child's status as a juvenile court dependent remain in effect.

- (i) The agency shall immediately refer the child back to the county welfare department.

- (AA) If a relinquishment for adoption is revoked or rescinded by a parent who has been denied the right to physical custody of the child by a court order, the agency shall:
1. Initiate court action to determine whether the parent has a right to physical custody of the child.
 2. Notify any other parents whose relinquishment has been filed by the department of the revocation or rescission of the relinquishment and of any planned court proceedings resulting from the request.
 - (i) The parent is responsible for keeping his/her name and address current with the agency so that notice can be given.
- (BB) If there is a court action to terminate parental rights, the agency shall notify the child's tribe and the tribe may intervene in the proceedings.
- (CC) The agency shall notify the parent if the adoption petition is withdrawn, dismissed, or denied or if the adoption is set aside.
1. The parent is responsible for keeping his/her name and address current with the agency so that notice can be given.
- (DD) Upon petition of either parent or the child's tribe, court proceedings to terminate parental rights will be transferred to the jurisdiction of the tribal court, provided:
1. The child's tribe has a court with jurisdiction to hear child custody proceedings,
 2. The California court finds no good cause not to transfer the proceeding to the Indian tribe,
 3. No other parent objects, and
 4. The tribe does not decline the transfer.

(EE) The agency shall take the necessary steps to obtain a Certificate of Degree of Indian Blood for the child, to enroll the child in his/her tribe or to register him/her for any Bureau of Indian Affairs' benefits which he/she may be eligible.

(FF) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the relinquishment is obtained through fraud or duress.

(GG) The parent may petition the court to invalidate any action terminating parental rights if termination procedures did not comply with the ICWA.

(HH) The Statement of Understanding for a mother or a presumed father who has been deprived of physical custody and has received family maintenance and/or family reunification services and whose child has been referred by the juvenile court to the permanency planning program with a plan of adoption and whose child is subject to the provisions of the ICWA is the AD 899A. (3/90).

(4) For an alleged natural father who relinquishes his child and whose child is subject to the ICWA through the mother's tribe:

(A) (Reserved)

HANDBOOK

(A) Refer to section 35131 for required counseling to be provided by the agency to this category of parent.

(B) He has the right to seek legal counsel to assist him in the relinquishment process and the agency can refer him to public legal assistance in the community.

(C) Because the child has been determined to be an Indian child, the requirements of the ICWA will apply to the taking of the relinquishment and the adoption of the child.

- (D) The agency shall tell him what their plan is for the adoption of the child.
- (E) He has been told why he is considered to be the alleged natural father of the child and he can deny paternity, waive his rights to further notice of the adoption proceedings, sign a relinquishment or file a petition to establish the father and child relationship.
- (F) He may talk about the plan to relinquish the child with other professionals and with family and friends.
- (G) Relinquishment means giving up the child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent.
- (H) He has considered the reasons for relinquishing or not relinquishing the child and has decided relinquishing the child to the agency for adoption is in the best interest of the child.
- (I) When he relinquishes a child he gives up the right to select adoptive parents.

HANDBOOK

- 1. Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.
- (J) He can take court action to establish the father and child relationship and request custody of the child.
 - 1. He has the right to seek legal counsel to assist in establishing the father and child relationship and obtaining the right to physical custody of the child and the adoption agency can refer him to public legal assistance in the community,

(K) If he is successful in establishing the father and child relationship and obtaining the right to physical custody of the child, he may obtain other services to assist with finance, employment, education, housing, temporary child care and health matters.

1. The agency will make a referral to the appropriate resource.

(L) If he establishes the father and child relationship in court and obtains the right to physical custody of the child and chooses not to relinquish the child to the agency he may arrange for the child's adoption independently by choosing adoptive parents, placing the child with them and consenting to their adoption of the child.

(M) If he has established the father and child relationship and has been granted the right to physical custody of the child in court, the agency shall give him the child pursuant to the court order.

1. Under normal circumstances the child will be given to him within three working days and in no case shall it require more than seven calendar days.

2. If the return of the child will place the child in imminent danger of neglect, cruelty, depravity or physical abuse the agency shall make an immediate referral to the county's children's protective services.

(i) The agency shall inform the parent in writing a referral has been made to the county's child protective services agency.

(N) The relinquishment terminates the parent's rights to the custody, services and earnings of the child.

(O) Relinquishment terminates the parent's responsibility for the care of the child.

- (P) If he does not relinquish the child to the adoption agency, the agency can petition the court to terminate his parental rights.
1. He has the right to seek legal counsel to assist him and the agency can refer him to public legal assistance in the community.
- (Q) Adoption terminates any inheritance from the parents or blood relatives of the child unless they make specific provision for the child by will or by trust; the child legally inherits from his/her adoptive family.

HANDBOOK

1. The adoption of an Indian child terminates inheritance from the biological parents or blood relatives to the child; however, any rights or benefits the child has or may be eligible for as a result of his/her status as an Indian are unaffected. See Subchapter 8.
- (R) The agency is required to give him all known information about the status of the child's adoption including whether the child has been placed for adoption, the approximate date the adoption was completed and, if the adoption was not completed or was vacated for any reason, whether adoptive placement of the child is again being considered.
1. He must keep the agency informed of his current whereabouts if he wants to know when the child is placed in an adoptive home and when the child is legally adopted.
- (S) After the child has been legally adopted, the agency cannot return the child.
- (T) The agency cannot release any identifying information about him unless:
1. The welfare of the child requires the release of information to certain agencies as specified in law relating to the adoption petition, or

2. The adult adoptee, any living adoptive parent and birth parent all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among the persons in accordance with Civil Code Section 230.6, or

HANDBOOK

- (i) The content of Civil Code Section 230.6 is located at Section 35049(a)(4)(B).
3. The adoptee who has reached the age of 21 has requested the identity of his/her birth parent and his/her most current address as indicated in the agency's records if the birth parent has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
4. The birth parent of an adopted person who has reached the age of 21 has requested the adopted name of the adoptee and most current address as shown in the agency's records if the adult adoptee has indicated consent to the disclosure in writing in accordance with Civil Code Section 227(b), or
5. The adoptive parent of an adopted person under 21 years of age has requested the identity of the birth parent and his/her most current address as shown in the agency's records if there is a finding by the agency a necessity or other extraordinary circumstance justifies the disclosure in accordance with Civil Code Section 227(b).

HANDBOOK

- (i) The content of Civil Code Section 227(b) is located at Section 35053(a)(1).

(U) Information regarding the adoption may be released as follows:

1. The adopted child who has reached age 18 may request and receive from the court which granted the adoption information regarding the tribal affiliation of the birth parent and any other information necessary to protect any rights the adopted child may have with regard to his/her tribal relationship.
2. The court granting the adoption will release to the Secretary of the Interior information concerning the adoption and the child, the adoptive parents, the birth parents, and the agency having information concerning the adoptive placement. The parent who desires anonymity must file an affidavit requesting anonymity with the court. The ICWA requires the Secretary of the Interior to ensure confidentiality will be maintained; however, tribes do not always maintain confidentiality if they know of the adoption.
3. At the request of the adopted child over age 18, the adoptive parents or the Indian tribe, the Secretary of the Interior will release the information provided by the court to the extent necessary to enroll the adopted person in the tribe or to determine any rights or benefits associated with tribal membership. If the parent submitted an affidavit to the court requesting anonymity, the Secretary will certify, where information warrants, that the child is entitled to enrollment rather than release the information.
4. Upon request of the Bureau of Indian Affairs or an adopted child who has reached age 18, the department will make a copy of all documents pertaining to the degree of Indian blood and tribal enrollment available to the requestor.

(V) The law permits the court to release identifying information from the court adoption file after considering the reasons for the request.

(W) The relinquishment document shall be signed before a judge of the Superior Court in California, or before a court of competent jurisdiction if signed outside the state.

(X) There is a required order of placement preference as follows:

1. Someone from the child's extended family,
2. Someone from the child's tribe, or
3. Placement with another Indian family.

(Y) The placement preference can be modified only by the tribe or the court.

1. The parent may request the court to modify the order of placement preference.

(Z) The parent shall be permitted to revoke or rescind the relinquishment during any holding period and at any time before the adoption is granted by the court.

1. (Reserved)

HANDBOOK

1. See Section 35369(a)(3) regarding revocation and rescission of a relinquishment.

2. His rights and responsibilities as the child's alleged natural father continue unless terminated by other legal action.

(AA) Upon the request of a parent who gave physical custody of the child to the agency to revoke or rescind his/her relinquishment, the agency will return the child to his/her custody.

1. Under normal circumstances the child will be given to the parent within three working days and in no case shall the return of the child require more than seven calendar days.
2. The rights and responsibilities as the child's parent continue unless terminated by other legal action.
3. If return of the child would place the child in imminent danger of neglect, cruelty, depravity, or physical abuse, the agency shall make an immediate referral to the county's children's protective services agency.
 - (i) The agency shall inform the parent in writing a referral has been made to the county's child protective services agency.

(BB) If a relinquishment for adoption is revoked or rescinded by a parent who has been denied the right to physical custody of the child by a court order, the agency shall:

1. Initiate court action to determine whether the parent has a right to physical custody of the child.
2. Notify any other parents whose relinquishment has been filed by the department of the revocation or rescission of the relinquishment and of any planned court proceedings resulting from the request.

(CC) If there is a court action to terminate parental rights of a parent, the agency shall notify the child's tribe and the tribe may intervene in the proceedings.

(DD) The agency shall notify the parent if the adoption petition is withdrawn, dismissed, or denied or if the adoption is set aside.

1. The parent is responsible for keeping his/her name and address current with the agency so notice can be given.

(EE) Upon petition of either parent or the child's tribe, court proceedings to terminate parental rights will be transferred to the jurisdiction of the tribal court, provided:

1. The child's tribe has a court with jurisdiction to hear child custody proceedings,
2. The California court finds no good cause not to transfer the proceeding to the Indian tribe,
3. No other parent objects, and
4. The tribe does not decline the transfer.

(FF) Within five years of the granting of the adoption in court the parent shall have the right to petition the court to set aside the adoption if the relinquishment is obtained through fraud or duress.

(GG) The agency shall take the necessary steps to obtain a Certificate of Degree of Indian blood for the child, to enroll the child in his/her tribe or to register him/her for any Bureau of Indian Affairs' benefits which he/she may be eligible.

(HH) The parent may petition the court to invalidate any action terminating parental rights if termination procedures did not comply with the ICWA.

(II) The Statement of Understanding for an alleged natural father who relinquishes his child and whose child is subject to the provisions of the ICWA through the mother's tribe is the AD 899C (3/90).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 224m, 224n, 224o, 224p, 224s, 224t, 224v, 227aaa, 227d, 238, 229, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; Section 16507.5, Welfare and Institutions Code; and 25 U.S.C. Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917.

Adopt Section 35149 to read:

35149 ACCEPTING THE STATEMENT OF UNDERSTANDING

35149

(a) The agency shall accept the parent's Statement of Understanding as follows:

- (1) For parents of children who come within the provisions of the ICWA, additional requirements shall be followed in accordance with Subchapter 8, Articles 4 and 5.

HANDBOOK

- (A) The agency may want to consider reviewing the Statement of Understanding with the parent prior to signing it in court to answer any questions the parent may have.
- (2) The agency shall obtain the parent's signature on the Statement of Understanding after he/she has:
- (A) Indicated his/her understanding of the relinquishment process by reading and initialing each explanatory statement on the Statement of Understanding form.
- (B) Indicated his/her preference regarding options for the filing of the relinquishment form.
- (3) The Statement of Understanding shall be signed:
- (A) In the presence of the agency representative and two witnesses if signed in California.
1. The witnesses shall be at least 18 years of age.
- (B) In the presence of an authorized child welfare services agency representative or before a notary public, if signed out-of-state pursuant to Civil Code Section 224m.

HANDBOOK

1. Civil Code Section 224m reads in relevant part:

"...In cases where a father or mother of a child resides outside the State of California and the child is placed for adoption by an organization licensed by the State Department of Social Services to place children for adoption, the father or mother may relinquish the child to the organization by a written statement signed by the father or mother before a notary on a form prescribed by the organization, and previously signed by an authorized official of the organization, which signifies the willingness of the organization to accept the relinquishment..."

2. In obtaining an out-of-state relinquishment, the agency should refer the parent to an authorized or accredited adoption agency in the parent's own state.
3. The use of a reader or translator by the out-of-state agency should be verified by the out-of-state agency.

(C) Before an official of the U.S. Consulate or Embassy in the foreign country, if any, or the staff of the U.S. Section of the Embassy of a neutral country.

HANDBOOK

1. An example is the U.S. Section of the Swiss Embassy in Iran.
2. One Statement of Understanding may be signed by the parent for the relinquishment of more than one child if the status of the parent-child relationship is the same for all children relinquished; e.g., the parent has physical custody of all the children he/she relinquishes or a father is the presumed father of all the children he relinquishes.

3. The ICWA requires that the relinquishment including the Statement of Understanding be signed before a court of competent jurisdiction. Therefore, this subsection does not apply to the parent whose child is subject to the provisions of the ICWA.

(4) The agency shall give the parent the option of waiting a maximum of 14 calendar days before signing the relinquishment document.

(A) The agency must complete a new Statement of Understanding if the maximum of 14 calendar days has elapsed and the parent desires to sign the relinquishment document.

(5) After the agency representative signs the Statement of Understanding, the representative shall give the parent a copy of the signed form.

Authority Cited: Section 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code and 25 U.S.C. Sections 1903(1) and 1913.

Adopt Section 35151 to read:

35151 ACCEPTING THE RELINQUISHMENT DOCUMENT

35151

(a) The agency shall accept the parent's relinquishment document as follows:

(1) For parents of children who come within the provisions of the ICWA, additional requirements shall be followed in accordance with Subchapter 8, Articles 4 and 5.

(A) (Reserved)

HANDBOOK

(A) The agency may want to consider reviewing the relinquishment document with the parent prior to signing it in court to answer any questions the parent may have.

(B) In requests for out-of-state relinquishments for Indian children the agency shall include instructions to accept the relinquishment in accordance with the requirements of the ICWA.

(2) The relinquishment document shall be signed:

(A) After the Statement of Understanding has been signed pursuant to Section 35149.

(B) In the presence of the agency representative and two witnesses if signed in California.

1. The witnesses shall be at least 18 years of age.

(C) In the presence of an authorized child welfare services agency representative or before a notary public if accepted from out-of-state pursuant to Civil Code Section 224m.

HANDBOOK

1. Civil Code Section 224m is located at Section 35149(a)(3)(B)1..

2. In obtaining an out-of-state relinquishment the agency should refer the parent to an authorized or accredited adoption agency in the parent's own state.

3. The use of a reader or translator by the out-of-state agency should be verified by the out-of-state agency.

(D) Before an official of the U.S. Consulate or Embassy in the foreign country, if any, or the staff at the U.S. Section of the Embassy of a neutral country.

HANDBOOK

1. An example is the U.S. Section of the Swiss Embassy in Iran.
2. The ICWA requires that the relinquishment including the Statement of Understanding be signed before a court of competent jurisdiction. Therefore, this subsection does not apply to the parent whose child is subject to the provisions of the ICWA.

(3) At the time the relinquishment document for adoption is signed, the agency shall:

(A) Present to the parent the statements required by Civil Code Section 224v and obtain a response from the parent in writing and the parent's signature on the form.

HANDBOOK

1. The content of Civil Code Section 224v is referenced at Section 35121(a)(3)(B).
2. This form is the AD 908.

(B) Advise the parent of the provisions of Civil Code Section 224o.

HANDBOOK

1. Civil Code Section 224o reads as follows:

"Civil Code Section 224o:

On or before the time a relinquishment or a consent to adoption is signed, the parent signing the relinquishment or consent shall be advised verbally and in writing by the department or the licensed adoption agency, that he or she may, at any time in the future, request from the agency or the department, all known information about the status of the child's adoption, except for personal, identifying information about the adoptive family. The parent shall be advised that this information includes, but is not limited to, all of the following: (1) whether the child has been placed for adoption, (2) the approximate date that an adoption was completed, and (3) if the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered."

(C) Accept the relinquishment by signing the acknowledgment portion of the relinquishment document.

(D) Give the parent a copy of the completed relinquishment document.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code and 25 U.S.C. Sections 1903(1) and 1913.

Adopt Section 35153 to read:

35153 SUBMITTING THE RELINQUISHMENT FORM TO THE
DEPARTMENT

35153

(a) After completion of any holding period the agency shall:

(1) Attach a copy of the signed Statement of Understanding to each certified copy of the relinquishment document.

(2) Submit the relinquishment form to the department for filing:

(A) Within 10 working days after the expiration of any holding period but not prior to the end of the specified holding period.

(B) Within 10 working days following its execution if the parent requests immediate filing, but no sooner than the close of the working day following its signing.

HANDBOOK

1. The relinquishment form is not effective in terminating parental rights if submitted by the agency for filing prior to the expiration of a specified holding period and may be accepted for filing by the department only by the agency's refiling of it at the end of the specified period.

(3) Certify in writing to the department when submitting the relinquishment form for filing, if it has been held for any period, that the parent did not request return of the child during the holding period.

(4) (Reserved)

HANDBOOK

- (4) The department will confirm to the agency the receipt of the relinquishment form terminating the parental rights of the parent when it is filed by the department.
- (5) Submit a copy of any psychiatric/psychological evaluation and statement of the conservator, if appropriate, to the department with the relinquishment form.
- (6) Send the parent a copy of the filed relinquishment form.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code.

Adopt Section 35155 to read:

35155 ADDITIONAL COUNSELING/REFERRAL SERVICES

35155

(a) After accepting a relinquishment, the agency shall provide additional counseling and/or referral services to the relinquishing parent as needed.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 224m, Civil Code.

SUBCHAPTER 5. PROCEDURES FOR AGENCY ADOPTIONS

Article 1. Procedures Prior to Accepting Relinquishment

35128. Services to the Relinquishing Parent.

(a) To assist in the best planning for the relinquishing parent and the child the agency or the department representative shall, before accepting a relinquishment form:

- (1) Determine that the child may benefit from adoption;
- (2) Advise the relinquishing parent regarding independent adoption options and of legal resources, such as lawyer referral service or available free legal assistance that can help if the independent adoption option is chosen;
- (3) Advise the relinquishing parent regarding the extent to which the agency will or will not allow his participation in the selection of the adoptive family and the kind of non-identifying information he may receive about the child's placement after adoption;
- (4) Ascertain that the relinquishing parent has freely chosen to relinquish the child;
- (5) Insure that the relinquishing parent is informed of and has indicated that he understands his legal rights regarding the relinquishment, and the meaning and legal effects of relinquishment;
- (6) Provide information about resources for temporary care of the child and explore placement with extended family members;
- (7) Provide information regarding parental rights as set forth in Section 30615, including the right to keep the child;
- (8) Provide counseling, as needed, to help the relinquishing parent with his feelings regarding the child and the long-range implications of either caring for the child or relinquishing the child for adoption;
- (9) Provide information regarding alternative plans for the child, including relinquishment adoption, independent adoption, keeping the child, foster care or reunification services, with a complete description of each alternative;
- (10) Provide information to the biological parent of an Indian child on the provisions of the Indian Child Welfare Act, Title 22, California Administrative Code, Division 2, Chapter 3, Subchapter 4.

(b) Before accepting a relinquishment form, the agency or department representative shall inform the relinquishing parent of such resources as the following, and shall make a referral when appropriate to:

- (1) Financial resources, such as Aid to Families with Dependent Children, Supplemental Security Income/State Supplemental Program, and Medi-Cal. The agency staff shall assist a parent in understanding the right to apply for public assistance, and shall cooperate with the public social service department staff in order to establish eligibility for aid;
- (2) Employment resources, such as private and public vocational training and Employment Development Department services;
- (3) Educational resources, such as continuing education and General Equivalency Diploma programs;
- (4) Child care resources, such as licensed family day care and child care centers;
- (5) Housing resources, such as government subsidized or other low cost housing;

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(6) Health Service resources, such as well baby clinics, California Children's Services, and other public community resources which provide medical and dental care;

(7) Legal resources, such as lawyer referral service or available free legal assistance.

(c) After taking a relinquishment the Department or agency representative shall provide counseling or referral to the relinquishing parent, if needed.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

HISTORY:

1. Repealer and new section filed 2-4-82; effective thirtieth day thereafter (Register 82, No. 61).

2. Renumbering of Section 30593 to Section 35128 filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former Chapter 3, see Register 88, No. 1.

Article 2. Relinquishment Forms Completion and Submission

35142. Prerequisites to Relinquishment.

Prior to taking a relinquishment the agency shall determine that the parent has chosen the plan of adoption for the child and that the child can be freed for adoption. At the time of taking the relinquishment, the adoption worker must determine from his or her own observations that the parent understands the content, nature, and effect of signing the relinquishment. The worker's observations must be recorded in the case record.

If the worker has a question based upon observations of the parent's behavior or capacity for understanding the nature and effect of signing the relinquishment, this question must be resolved through a referral to a physician for evaluation. After receiving an evaluation from the physician, a relinquishment may be taken if there is no question as to the parent's competency or capacity to comprehend what is involved in the relinquishment process.

Necessary verifications of competency shall be made before the relinquishment is filed.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

HISTORY:

1. Repealer of Article 3 (Sections 30613-30625) and new Article 3 (Sections 30613-30625, not consecutive) filed 12-3-74; effective thirtieth day thereafter (Register 74, No. 49). Issuing agency: Department of Health.

2. Renumbering of Section 30613 to Section 35142 filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former Chapter 3, see Register 88, No. 1.

35144. Relinquishment—Content of Form.

(a) All relinquishments shall be taken on a form prescribed by the Department.

(b) The relinquishment form shall provide for identification of:

(1) The child's name, sex, birthdate, and place of birth as identified on the birth certificate;

(2) The name of the relinquishing parent;

(3) The name, address, and telephone number of the licensed California agency accepting the relinquishment.

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(c) In addition, the form shall provide verification that the relinquishing parent understands the content, nature and effect of the relinquishment. Statements which summarize the following information shall be included. A space shall be provided with each statement for the relinquishing parent's initials. By placing his initials in the space the relinquishing parent shall signify his understanding of and agreement with the statement. In addition the form shall provide a space for the parent to indicate which of the filing options described in subsections (10), (11) and (14) below he wishes to select and indicate the date the form is to be mailed to the Department for filing.

(1) That relinquishment means giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent.

(2) That the relinquishing parent may obtain other services, including temporary child care, if uncertain about relinquishing the child.

(3) That the relinquishing parent has considered the reasons for keeping and for giving up the child and has decided that giving up the child to the agency for adoption is in the best interest of the child.

(4) That a relinquishment shall be binding when it is filed with the Department.

(5) That a parent who relinquishes a child gives up the right to select adoptive parents although, at the discretion of the agency, the parent may participate to an appropriate degree in the choice. The parent who chooses not to relinquish the child may still arrange for the child's adoption without the agency's participation by independently choosing adoptive parents, placing the child with them and consenting to their adoption of the child.

(6) That relinquishment shall terminate the relinquishing parent's rights to the custody, services and earnings of the child after the relinquishment is filed.

(7) That relinquishment shall terminate parental responsibility for the care of the child.

(8) That adoption shall terminate any inheritance from the relinquishing parents or blood relatives to the child unless they make specific provision by will or trust; the child legally inherits from his adoptive family.

NOTE: The adoption of an Indian child terminates inheritance from the biological parents or blood relatives to the child; however, any rights or benefits the child has or may be eligible for as a result of his status as an Indian are unaffected. See Title 22, California Administrative Code, Division 2, Chapter 3, Subchapter 4.

(9) That prior to an adoptive placement the relinquishing parent may have access only to that information regarding the relinquished child which the agency decides to provide. After completion of the adoption, the relinquishing parent shall have no access to information from the agency which would identify the adoptive family or reveal its whereabouts.

(10) That the relinquishing parent shall be permitted to have the signed relinquishment form submitted for filing without a holding period. If the relinquishing parent requests in writing that the relinquishment form be submitted for filing without a holding period he may revoke the relinquishment at any time prior to the close of the next working day following the signing of the relinquishment form.

(11) That the relinquishing parent shall be permitted to have the signed relinquishment form held for a specified period of up to 30 days before the agency submits it to the Department for filing.

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(12) That if the relinquishing parent has requested in writing that the agency hold the signed relinquishment form before filing for a specified period of up to 30 days, an adoptive placement shall not be made during the specified period.

(13) That if the relinquishing parent requests the agency to hold the signed relinquishment form for a specified period of up to 30 days, the parent may revoke the relinquishment at any time prior to the expiration of the specified period. If the last day of such a period falls on a weekend or legal holiday, the parent may revoke the relinquishment on the next working day following the weekend or holiday.

(14) That the agency shall be permitted to hold a relinquishment form more than 30 days if questions about the rights of any other parent to custody of the child have not been resolved. The relinquishing parent and the agency shall mutually agree in writing to the extended period.

(A) The written agreement with the agency shall specify the time period the relinquishment form will be held and the reason for holding the form more than 30 days. If a specific number of days cannot be stated in advance, the extended period shall be defined as ending with the resolution of all other parents' legal rights to custody of the child.

(B) The agreement to extend the holding period to more than 30 days shall be signed by the relinquishing parent and the agency's representative.

(15) That if the relinquishing parent and agency agree in writing not to submit the relinquishment form for filing for a specified period of more than 30 days, an adoptive placement shall not be made during the agreed-upon holding period, and the parent may revoke the relinquishment at any time prior to the expiration of the agreed-upon period. If the last day of such a period falls on a weekend or legal holiday, the parent may revoke the relinquishment on the next working day following the weekend or holiday.

(16) That the relinquishing parent has the right to request and obtain the return of the child prior to signing the relinquishment form or during the holding period if the relinquishing parent is otherwise entitled to legal custody, and if such action would not place the child in imminent danger of neglect, cruelty, depravity or physical abuse.

(A) The agency shall refer any child whom it believes to be in such imminent danger to the county children's protective services agency for further planning.

(B) When it is decided that action will be taken to make the child a dependent of the court, the parent shall be informed that there will be a court hearing, that he has a right to counsel and counsel may be appointed by the court.

(C) Under normal circumstances, the relinquishing parent may expect return of the child within three working days, but in no case shall the return of the child require more than seven calendar days following the parent's request.

(17) That after the relinquishment form is filed with the Department, the relinquishing parent has the right to request the child's return, but the child will be returned only if the agency consents.

(A) An agency may deny consent only after the agency administrator's review of the request, and shall advise the parent in writing of its decision and the reasons for such a decision.

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(18) That the relinquishing parent should keep the agency informed of his address for an agreed upon period of time.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

HISTORY:

1. Amendment filed 2-4-82; effective thirtieth day thereafter (Register 82, No. 6).
2. Renumbering of Section 30615 to Section 35144 filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former Chapter 3, see Register 88, No. 1.

35146. Witnesses to the Relinquishment.

(a) The signing of the relinquishment form shall be witnessed by two persons who shall sign a statement that they witnessed the signing of the form. The agency's authorized official may be one of the witnesses only if the presence of two other witnesses is not possible, but in any event he shall also sign that he witnessed the signing of the form.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

HISTORY:

1. Renumbering of Section 30617 to Section 35146 filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former Chapter 3, see Register 88, No. 1.

35148. Requirements Prior to the Taking of Relinquishment.

- (a) A relinquishment shall be taken from a parent only after the child is born.
- (b) The mother's relinquishment of a newborn shall be taken only after she has been medically discharged from the hospital; or in those cases where the mother is hospitalized more than five days, a relinquishment shall be taken only after obtaining a written statement from the attending physician that the mother is medically competent to execute a valid relinquishment.

NOTE: In the case of an Indian child, a relinquishment shall not be taken until ten days after the birth of the child and shall be taken before a judge of the Superior Court as required in Title 22, Division 2, Chapter 3, Subchapter 4, Section 30921.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

HISTORY:

1. Amendment filed 2-4-82; effective thirtieth day thereafter (Register 82, No. 6).
2. Renumbering of Section 30621 to Section 35148 filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former Chapter 3, see Register 88, No. 1.

35150. Taking of Relinquishment—Competency to Sign.

(a) Prior to taking a relinquishment of a parent who is a patient in or on leave from a public or private psychiatric facility, or under private or public psychiatric treatment for mental illness, the agency shall:

- (1) Obtain a statement from the treating or supervising physician stating that the parent has the mental capacity to understand the nature and effect of relinquishment action.
- (2) Secure parent's signature on the relinquishment within thirty (30) days after the date of examination or evaluation upon which the statement is based.
- (3) Attach physician's written statement on the Face Sheet (AD 90) before filing the relinquishment with the State Department of Health.

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(b) If the parent has discontinued psychiatric treatment within the past two years, this shall be verified before the relinquishment is signed. If a parent has consulted a physician or psychiatrist for other reasons, such as marriage counseling or family problems or for educational purposes (as when in a maternity home), this is not considered to constitute psychiatric treatment, for relinquishment purposes.

(c) Before taking a relinquishment, if the social worker has question on the basis of observations or information obtained regarding mental deficiency, the parent shall be referred to a physician or a licensed clinical psychologist for an evaluation of the parent's capacity to understand the content and effect of signing a relinquishment.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

HISTORY:

1. Amendment of section heading filed 2-4-82; effective thirtieth day thereafter (Register 82, No. 6).

2. Renumbering of Section 30623 to Section 35150 filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former Chapter 3, see Register 88, No. 1.

35152. Relinquishment Not Possible by Some Parents with History of Mental Illness or Mental Deficiency.

(a) A relinquishment shall not be taken from a parent who is a patient in or on leave from a public or private psychiatric facility or under private or public psychiatric care for mental illness, when the treating or supervising physician refuses to state in writing that the parent has the capacity to understand the nature and effect of relinquishment action. (See Section 30623.)

(b) A relinquishment shall not be taken from any parent who has been judicially determined to be incompetent under Probate Code Sections 1460-1462 so long as the decree remains in force.

(c) In cases where a parent is not competent to sign a valid relinquishment, the agency shall explore the possibility of legal action to free the child from parental custody and control under Civil Code Section 232(a) (5) or (a) (6).

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

HISTORY:

1. New section filed 4-19-78; effective thirtieth day thereafter (Register 78, No. 16).

2. Renumbering of Section 30624 to Section 30625 and renumbering of former Section 30625 to Section 30624 filed 2-4-82; effective thirtieth day thereafter (Register 82, No. 6).

3. Renumbering of Section 30624 to Section 35152 filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former Chapter 3, see Register 88, No. 1.

35154. Filing of Relinquishments.

(a) A relinquishment shall be binding when a certified copy of the document is filed with the Department. Filing terminates the legal relationship between the child and the parent who signs the relinquishment form. No relinquishment form shall be filed on the day on which the relinquishment form is taken.

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(b) If the relinquishing parent has requested in writing that the relinquishment form be submitted to the Department for filing without any holding period, the agency shall submit the relinquishment form for filing within 10 working days following its execution but no sooner than the close of the working day following its signing.

(c) If the relinquishing parent has requested in writing that the agency hold the relinquishment form for a specified period of up to 30 days:

(1) The relinquishment form shall be submitted for filing within 10 working days after the specified period but not prior to the expiration of the specified period.

(2) When submitting the relinquishment form for filing, the agency shall confirm in writing that the relinquishing parent has not requested the return of the child.

(3) An adoptive placement shall not be made prior to the expiration of the specified period.

(4) The relinquishment shall not be effective in terminating parental rights if submitted for filing prior to the expiration of the specified period. It may be validated only by refiling at the end of the specified period.

(d) If the relinquishing parent and the agency mutually agree not to submit the relinquishment form for filing for a period of more than 30 days in accordance with Section 30615(c)(14), the agency shall submit the relinquishment form for filing within 10 working days after the specified period.

(1) The agreement shall be in writing and shall specify the length of time the form is to be held before submitting it for filing.

(2) If it is not possible to specify the exact period for which the relinquishment form is to be held, the period shall be defined to end with the resolution of all other parents' legal rights to custody of the child.

(e) The Department shall confirm to the agency the receipt of documents terminating the legal rights of the relinquishing parent when they are filed with the Department. The agency shall send the relinquishing parent a conformed copy of the filed relinquishment form unless the parent notes on the relinquishment form that he does not with a conformed copy.

(f) The Department shall not waive the court report required under Section 226.6 of the Civil Code if the legal documents or notices are not adequate or if further information is needed. The agency shall be advised of the reason for which the Department is not issuing its waiver.

(g) The Department shall file a report with the court if notice is received that a petition in which the agency is joining has been filed for the adoption of a child prior to filing of documents with the Department indicating that a child is legally free for adoption.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

HISTORY:

1. Renumbering of Section 30625 to Section 30624 and renumbering and amendment of former Section 30624 to Section 30625 filed 2-4-82; effective thirtieth day thereafter (Register 82, No. 6).

2. Renumbering of Section 30625 to Section 35154 filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former Chapter 3, see Register 88, No. 1.

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OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In this office of the Secretary of State
of the State of California

MAR 09 1990

At 4:05 o'clock P. M.

MARCH FONG EU, Secretary of State

By Louella Cruz
Deputy Secretary of State

This certifies that the regulations submitted in the
rulemaking file identified below were reviewed and approved
by the Director of the Office of Administrative Law in the
city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 90-0207-03


LINDA BREWER
DIRECTOR

03/09/90

FACE SHEET

(See Instructions on Reverse)

RDB #0190-07

15300/MAR 99 PM 3:00
OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

MAR 19 1990

Office of Administrative Law

EMERGENCY

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION: I hereby certify that the attached
are true and correct copies of regulations
adopted, amended or repealed by this agency
and that the information specified on this Face
Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

L. S. Mehl

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

3/8/90

FILED
In this office of the Secretary of State
of the State of California

MAR 19 1990
At 4:06 o'clock P.M.
MARCH FONG EU, Secretary of State
By *Louella Cruz*
Deputy Secretary of State

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)
Rosalie Clark, Chief, Regulations Development Bureau
TITLE
TELEPHONE
445-0313
2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance
(Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: 63-093
SECTIONS AMENDED: 63-602.323 and 63-602.49
SECTIONS REPEALED:
b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency
complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the
agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER
N/A
b. DATE OF FINAL AGENCY ACTION
March 8, 1990
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.
CODE SEC. 11346.8(c))
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s):
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant
to Govt. Code Sec. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☒ Effective on April 1, 1990 (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

63-093 IMPLEMENTATION OF REGULATIONS FOR ISSUANCE AND 63-093
ISSUANCE LIABILITY #1 - EXPIRATION DATE

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

1

Amend Section 63-602.323 to read:

63-602 ISSUANCE SYSTEMS (Continued)

63-602

.3 ATP Requirements. (Continued)

.32 Issuance of ATPs

.321 (Continued)

.322 (Continued)

.323 Issuance of ATPs on or after the 2~~5~~0th of the Month

The CWD shall clearly mark each ATP with an expiration date. The ATP shall be valid for the entire month of issuance unless an ATP has been issued on or after the 2~~5~~0th day of the month. ATPs issued on or after the 2~~5~~0th of the month shall not expire for a period of less than 20 calendar days or until the end of the following month.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 274.3(e).

Amend MPP Section 63-602.49 to read:

63-602 ISSUANCE SYSTEMS (Continued)

63-602

.4 HIR Card Issuance System

.41 through .48 (Continued)

.49 Issuance on or after the 2~~5~~0th

The county shall provide a household certified for program participation on or after the 2~~5~~0th of the month the opportunity to obtain its allotment for at least 20 calendar days or until the end of the following month.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 274.3(e).

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In this office of the Secretary of State
of the State of California

MAR 19 1990

At 4:06 o'clock P. M.

MARCH FONG EU, Secretary of State

By Luella Cruz
Deputy Secretary of State

This certifies that the regulations submitted in the
rulemaking file identified below were reviewed and approved
by the Director of the Office of Administrative Law in the
city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 90-0309-03


LINDA BREWER
DIRECTOR

03/19/90

FACE SHEET

(See Instructions on Reverse)

RDB #0889-32

1990 FEB 27 AM 9:58

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

MAR 16 1990

Office of Administrative Law
For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

REGULAR
CERTIFICATION: I hereby certify that the attached regulation and correct codes of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)
L. S. Michel
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 2-22-90

FILED
In this office of the Secretary of State
of the State of California

MAR 16 1990
At 3:31 o'clock P.M.
MARCH FONG EU, Secretary of State
By *Truella Cruz*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
TITLE: Rosalie Clark, Chief, Regulations Development Bureau
TELEPHONE: 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title: MPP
SECTIONS ADOPTED: _____
SECTIONS AMENDED: 42-781.1
SECTIONS REPEALED: _____
b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER: November 3, 1989
b. DATE OF FINAL AGENCY ACTION: February 22, 1990
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)): N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Amend MPP Section 42-781.1 to read:

42-781 CAUSE DETERMINATIONS AND INFORMAL AND
FORMAL CONCILIATIONS

42-781

.1 Before sanctions (Section 42-786) are applied, the CWD shall determine if there is good cause and attempt to resolve the problems when an individual who is required to enter into a participant contract or who volunteers to participate in the program fails or refuses to meet any of the following program requirements:

.11 Enter into the contract.

.111 An exempt individual who volunteers to participate shall not be subject to the provisions of 42-781, 42-782, 42-783, 42-786.71 or 42-786.72 prior to entering into the initial contract.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.61, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In this office of the Secretary of State
of the State of California

MAR 16 1990

At 3:31 o'clock P. M.

MARCH FONG EU, Secretary of State

By Donella Cruz
Deputy Secretary of State

This certifies that the regulations submitted in the
rulemaking file identified below were reviewed and approved
by the Director of the Office of Administrative Law in the
city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 90-0227-02


LINDA BREWER
DIRECTOR

03/16/90

FACE SHEET

(See Instructions on Reverse)

RDB #0889-30

FILED

In this office of the Secretary of State
of the State of California

MAR 21 1990

At 4:14 o'clock P. M.

MARCH FONG EU, Secretary of State

By Luella Cruz
Deputy Secretary of State

For use by Secretary of State only

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 2-23-90

CERT

ENDORSED
APPROVED FOR FILING
MAR 20 1990

ENDORSED
APPROVED FOR FILING

MAR 21 1990

Office of Administrative Law

For use of Office of Admin Law

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
TITLE Rosalie Clark, Chief, Regulations Development Bureau
TELEPHONE 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: Section 63-088
SECTIONS AMENDED: Sections 63-102, 300, 301, 501, 502, 503, 504 and 505.
SECTIONS REPEALED:
b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations. OAL File #89-1019-07E
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
November 3, 1989
b. DATE OF FINAL AGENCY ACTION
February 23, 1990
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s):
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.

Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.

Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)

b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).

Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).

Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.

Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.

Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.

b. Provide the date on which the regulatory agency adopted the regulatory changes.

c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.

Part 9. Effective Dates — check one of the following:

- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Adopt new Section 63-088 to read:

63-088 IMPLEMENTATION OF REGULATIONS FOR THE HUNGER PREVENTION ACT OF 1988 (P.L. 100-435) 63-088

- .1 Effective November 1, 1989, the CWDs shall implement the following revised and adopted provisions: MPP Sections 63-102e.(1); 63-300.41 and .519; 63-301.543(a) and .544; 63-501.11, .3(e), .521(g), and .526 Table I; 63-502.2(a)(2) and (m); 63-503.16, .254, and .411(e); 63-504.211, .212, .341, .411, .421, and .631; 63-505.1, .2, .34, .4, and .511 for new food stamp applications and continuing cases.
- .11 Continuing cases shall be converted to these provisions at household request, at recertification, or when the case is reviewed next, whichever occurs first.
- .12 Continuing cases shall have benefits restored as follows:
 - .121 For MPP Section 502.2(m), restoration of benefits to entitled households retroactive to the date of application or January 1, 1989, whichever occurs later.
 - .122 For MPP Sections 63-102 e.(1)(D), (E), and (F); 63-501.3(e) and .521(g); 63-502.2(a)(2); 63-503.411(e); and 504.341, restoration of benefits to entitled households retroactive to the date of application or July 1, 1989 whichever occurs later.
- .2 Provisions in MPP Sections 63-301.543(a) and 63-503.16 shall be implemented by January 1, 1990 for all households which newly apply for Food Stamp Program benefits or apply for recertification on or after that date.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 272.1(g)

Amend MPP Section 63-102; reformat and redesignate Sections 63-102e. (1) (1)through (8) to (A) through (C) and (G) through (K) and adopt (D), (E) and (F); amend newly designated (B) to read:

63-102 DEFINITIONS

63-102

e. (1) "Elderly or disabled member" means a member of a household who:

(A) is 60 years of age or older;

(B) receives Supplemental Security Income (SSI) benefits under Title XVI, or disability or blindness payments under Title II (Social Security Disability Insurance Program) of the Social Security Act;

HANDBOOK BEGINS HERE

1. In accordance with Section 63-402.22, SSI recipients shall be included as a member of the household for purposes of household composition. However, they shall be excluded from the household for the purpose of determining household size, eligibility or benefit level.

HANDBOOK ENDS HERE

(C) receives disability retirement benefits from a governmental agency because of a disability considered permanent under Section 221(i) of the Social Security Act;

(D) receives interim assistance benefits pending receipt of SSI, provided that the eligibility to receive those benefits is based upon disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act;

(E) receives disability-related medical assistance under Title XIX (Medi-Cal) of the Social Security Act;

(F) receives disability-based general assistance benefits, provided that the eligibility to receive those benefits is based upon disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act;

- (G) is a veteran with a service-connected or nonservice-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under Title 38 of the United States Code;
- (H) is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;
- (I) is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code;
- (J) is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them; or
- (K) receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or Section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under Title XVI of the Social Security Act.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 271.2

Amend MPP Section 63-300.41 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.4 Interviews (Continued)

- .41 The CWD, at the time of the interview, shall determine which households shall be subject to monthly reporting and/or retrospective budgeting, as specified in Section 63-505.2. Households subject to monthly reporting and/or retrospective budgeting requirements shall be provided with the following at the certification and recertification interviews:

.411 (Continued)

.412 (Continued)

.413 (Continued)

- .414 A telephone number (toll-free or a number where collect calls will be accepted from households living outside the local calling area) which the household may call to ask questions or to obtain help in completing the monthly report.

HANDBOOK BEGINS HERE

- .415 The CWD may provide the name of a worker to contact.

HANDBOOK ENDS HERE

.42 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.21(c) and (c)(5)

Amend MPP Section 63-300.519 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification

.51 Mandatory Verification

The CWD shall verify the following information prior to certification for households initially applying:

.511-.518 (Continued)

.519 Disability

The CWD shall verify disability as defined in Section 63-102 e. (1) as follows:

- (a) For an individual to be considered disabled under subsection (B) of the definition, the household must provide proof that the disabled individual is receiving Supplemental Security Income (SSI) benefits under Title XVI, or Disability Insurance Program benefits under Title II of the Social Security Act.
- (b) For an individual to be considered disabled under subsection (G) of the definition, the household must provide a statement from the VA which indicates that the disabled individual is receiving VA disability benefits for a service - or nonservice-connected disability which is rated or paid at the total rate by VA.
- (c) For an individual to be considered disabled under subsections (H) and (I) of the definition, proof by the household that the disabled individual is receiving VA disability benefits is sufficient verification of disability.
- (d) For an individual to be considered disabled under subsections (C) and (J) of the definition, the CWD shall use the Social Security Administration's (SSA) most current list of disabilities considered permanent under the Social Security Act for verifying disability.

(1) (Continued)

(2) (Continued)

- (e) For an individual to be considered disabled under subsection (K) of the definition, the household shall provide proof that the individual receives a Railroad Retirement disability annuity from the Railroad Retirement Board and has been determined to qualify for Medicare.
- (f) For disability determinations which must be made relevant to Section 63-402.16, the EW shall verify that an individual has a permanent disability by using the SSA listing of disabilities. However, only those individuals who suffer from one of the disabilities mentioned in the SSA list who are unable to purchase and prepare meals because of their disability shall be considered disabled for the purpose of this provision.

(1) through (3) (Continued)

- (g) For individuals to be considered disabled under subsection (D) of the definition, the CWD shall verify through county records that the individual receives interim assistance benefits pending receipt of SSI. The CWD shall also verify that the benefits were conditioned on meeting disability or blindness criteria **AT LEAST AS STRINGENT AS THOSE USED UNDER TITLE XVI (SSI) OF THE SOCIAL SECURITY ACT.**
- (h) For individuals to be considered disabled under subsection (E) of the definition, the CWD shall verify through county records that the individual receives disability-related medical assistance under title XIX (Medi-Cal) of the Social Security Act.

- (i) For individuals to be considered disabled under subsection (F) of the definition, the CWD shall verify through county records that the individual receives disability-based general assistance benefits. The CWD shall also verify that the benefits were conditioned on meeting disability or blindness criteria **AT LEAST AS STRINGENT AS THOSE USED UNDER TITLE XVI (SSI) OF THE SOCIAL SECURITY ACT.**

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.2(f)(1)(viii)(A)(6)

Amend MPP Section 63-301.54 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS
(Continued)

63-301

.5 Expedited Service (Continued)

.54 Special Procedures for Expediting Service (Continued)

.543 Households that are certified on an expedited basis and have provided all necessary verification required by Section 63-300.5 within the expedited services time frame as specified in Section 63-301.541 shall be assigned a normal certification period.

(a) Households which apply for benefits after the 15th day of the month and have been determined eligible to receive benefits for the initial month and the subsequent month shall receive both allotments at the same time, in accordance with Section 63-503.16.

.544 Nonmonthly reporting households that are certified on an expedited basis and verification was postponed shall be assigned certification periods as follows:

(a) Those households that apply on or before the 15th day of the calendar or fiscal month shall be certified for one month only.

(1) Benefits for the initial month shall be prorated from the date the application was filed to the end of that calendar or fiscal month.

(2) Households shall reapply and complete the verification which was postponed, unless they have been certified under normal processing standards since the last expedited certification.

(b) Nonmonthly reporting households applying after the 15th day of the calendar or fiscal month shall be certified only for the month of application, and the subsequent month.

.545 Monthly reporting households with postponed verification shall be assigned a normal certification period in accordance with Section 63-504.1.

(a) (Continued)

(b) When households which apply for benefits after the 15th of the month provide the required postponed verification, the CWD shall issue the second month's benefits within five working days from receipt of the verification or the first day of the second calendar month, whichever is later. In CWDs that have staggered issuance, this shall be the first working day of the second calendar month, not the day benefits are issued using staggered issuance. This first working day of the calendar month issuance provision shall also apply to issuance in the third month for those migrant farmworker households needing out-of-state verification as outlined in Section 63-301.545(c).

(c) (Continued)

.546 (Continued)

.547 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 274.2(b)(3)

Amend MPP Section 63-501.11 to read:

63-501 RESOURCE DETERMINATIONS

63-501

The CWD shall apply the uniform national resource standards of eligibility to all applicant households, except as provided by Section 63-501.8.

.1 Definition of Resources

In determining the resources of a household, the following shall be included and documented by the CWD in sufficient detail to permit verification:

- .11 Liquid resources, such as cash on hand, money in checking or savings accounts, earned income tax credit (EITC) advance payments, savings certificates, trust deeds, notes receivable, stocks or bonds, non-recurring lump sum payments, funds held in individual retirement accounts (IRAs) and funds held in accessible Keogh plans.

.111 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(14) and Federal Register, Vol.54, No. 107, June 6, 1989, Page 24152.

Amend and renumber MPP Section 63-501.3 (e) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.3 Exclusions from Resources (Continued)

- (e) Property which is essential to the employment or self-employment of a household member.

HANDBOOK BEGINS HERE

- (1) Property may be farmland or work-related equipment, such as the tools of a tradesman or the machinery of a farmer.

HANDBOOK ENDS HERE

- (2) Resources of a business that are separate and identifiable, such as, but not limited to, a checking account for the business, shall be considered exempt resources until such time as they are commingled or become unidentifiable.

- (3) When a household member ceases to be self-employed in farming, property which was essential to this self-employment will continue to be excluded as a resource for a period of one year from the date of termination.

(f) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.8(e)(5)

Adopt MPP Section 63-501.521(g) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.5 Resource Values (Continued)

.52 Handling of Licensed Vehicles. (Continued)

.521 The entire value of any licensed vehicle shall be excluded if the vehicle meets any of the following conditions: (Continued)

(g) Previously used by a self-employed household member engaged in farming but no longer used over 50 percent of the time in farming because the household member has terminated his/her self-employment from farming. The vehicle shall continue to be excluded as a resource for a period of one year from the date of termination.

.522 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.8(h)(1)(i)

Amend MPP Section 63-501.526 to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.526 Determining Value of Licensed Vehicles

TABLE I

Step 1	Step 2	Step 3
<u>Totally exclude if:</u>	<u>Determine Fair* Market Value (FMV)</u>	<u>Determine Equity Value* if Not Exempt for the Following Reasons:</u>
1. Income producing (over 50%)	1. Use "blue book" for wholesale basic value	1. Exempt under Step 1
2. Annually producing income consistent with FMV	2. If above cannot be used, then use: .Household verifi- cation .Newspaper ad .Tax assessment .Other reliable source	2. One car, regardless of use
3. Necessary to employ- ment other than daily commuting, e.g., traveling salesman		3. Used to accept or continue employment
4. Household home		4. Used to seek or attend training or education preparatory to employment
5. Used to transport a physically disabled household member		
6. Previously used as income producing by household member self-employed in farming. Exclude for 1 year period from date of termination of self- employment in farming.		
IF NONE OF THE ABOVE GO TO STEP 2	COUNT ONLY THE EXCESS OVER \$4500 FOR EACH VEHICLE AND IF THE TOTAL EXCESS DOES NOT EXCEED THE HOUSEHOLD'S MAXIMUM ALLOWABLE RESOURCE LIMIT THEN GO TO STEP 3	IF THE FMV AND EQUITY ARE DETERMINED FOR ANY ONE VEHICLE, ONLY THE GREATER OF THE TWO AMOUNTS SHALL BE COUNTED TOWARD THE HOUSEHOLD'S RESOURCE LIMITS

*Equity value equals FMV less encumbrances.

Authority Cited: Sections 10554 and 18904, Welfare and
Institutions Code.

Reference: 7 CFR 273.8(h)(1)(i)

Amend and renumber MPP Section 63-502.2 (a) and adopt Section 63-502.2(m) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.2 Income Exclusions. Only the following items shall be excluded from household income:

(a) In-Kind Benefits

- (1) Any gain or benefit which is not in the form of money payable directly to the household, including nonmonetary or in-kind benefits, such as, but not limited to meals, clothing, public housing, or produce from a garden.

HANDBOOK BEGINS HERE

(A) For Example:

If the employer provides housing to an employee, the value of the housing shall not be counted as income.

HANDBOOK ENDS HERE

- (2) Direct payments received in lieu of in-kind benefits due to the household's participation in a demonstration project authorized under federal law, or demonstration projects created by the waiver of federal provisions.

(b) through (l) (Continued)

- (m) Earned income tax credit (EITC) advance payments. These payments shall be counted as resources in accordance with Section 63-501.11.

- (1) If the pay stub does not indicate an EITC payment was received, no further action is required.

- (2) If it is unclear from the pay stub what amount of EITC the recipient received, the CWD shall obtain clarification from the recipient and contact the employer if necessary to obtain the amount.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(1) and (c)(14)

Adopt MPP Section 63-503.16 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY
AND BENEFIT LEVELS

63-503

.1 Month of Application (Continued)

.16 Households which apply for benefits after the 15th day of the month and have been determined eligible to receive benefits for the initial month and the subsequent month, shall receive both allotments at the same time.

.161 CWDs have the option to provide both months' benefits in one combined allotment or as separate allotments as long as they are provided at the same time and within the time frame specified in Section 63-301.2 or Section 63-301.531 for expedited service.

.162 Benefits for the prorated initial month shall be provided in accordance with Section 63-503.13.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 274.2(b)(2)

Amend MPP Section 63-503.254 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

.2 Determining Resources, Income and Deductions (Continued)

.25 Determining Deductions For All Households (Continued)

.254 Disallowed expenses. The following expenses are not deductible:

(a) (Continued)

(b) An expense which is covered by an excluded vendor payment that has been converted to a direct cash payment under the approval of a federally authorized demonstration project [see Section 63-502.2 (a)(2)].

(c) (Continued)

(d) (Continued)

(e) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.10(d)(1)(i)

Adopt MPP Section 63-503.411(e) to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND
BENEFIT LEVELS (Continued)

63-503

.4 Households with Special Circumstances

.41 Households with Self-Employment Income (Continued)

.411 Monthly Reporting Households with
Self-Employment Income (Continued)

- (e) If income is from a household member's self-employment in a farming operation and irregular expenses are incurred to produce that income, the household shall have the option to average the expenses and related income over a 12-month period.

.412 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and
Institutions Code.

Reference: 7 CFR 273.11(a)(1)(v) and 7 CFR 273.21(f)(2)(i)

Amend MPP Section 63-504.211 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.2 Notices of Action

.21 General Requirements

.211 A notice shall be considered adequate if it explains in easily understandable language the proposed action, the reason for the proposed action, the household's right to request a state hearing, and contains the telephone number to contact for additional information, the availability of continued benefits, and the potential liability of the household for any overissuance received while awaiting a state hearing, if the hearing decision is adverse to the household. For households living outside the local calling area, the notice shall contain a toll-free number or a number where collect calls will be accepted. All notices shall contain the information necessary to be considered adequate.

HANDBOOK BEGINS HERE

.212 The CWD may provide the name of a worker to contact.

HANDBOOK ENDS HERE

.213 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.10(g)(1)(i)(A) and (ii) and 7 CFR 273.13(a)(2)

Amend MPP Section 63-504.341 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.3 Monthly Reporting (Continued)

.34 CWD Action on a Complete CA 7 Requiring Additional
Verification/Information (Continued)

.341 The household shall provide with the CA 7
verification of the following items:

- (a) Dependent care costs which have changed since the last report or when there is questionable information which is inaccurate, incomplete, outdated, or inconsistent;
- (b) All allowable medical expenses. However, if the household elects the option of reporting only changes of more than \$25 in total, verification is only required when the change is reported or when there is questionable information which is inaccurate, incomplete, outdated, or inconsistent;
- (c) Housing costs when first allowed as a deduction and when there is a move or change in amount or when there is questionable information which is inaccurate, incomplete, outdated or inconsistent;
- (d) (Continued)
- (e) Actual utility costs, if the household is claiming the actual expenses when there is a change since the last report or when there is questionable information which is inaccurate, incomplete, outdated or inconsistent;
- (f) through (h) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and
Institutions Code.

Reference: 7 CFR 273.21(i)(1) and (3)

Amend MPP Sections 63-504.411 and .42 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.4 Effecting Changes for Nonmonthly Reporting Households

.41 Change Report Form (DFA 377.5)

The CWD shall provide all households which are exempt from food stamp monthly reporting with a DFA 377.5, as specified in Sections 63-505.22.

.411 At a minimum, a DFA 377.5, shall be provided to each nonmonthly reporting household at the time of certification, at recertification, if the household needs a new form, and whenever a DFA 377.5 is returned by the household. It shall include a toll-free number or number where collect calls will be accepted for households living outside the local calling area.

.42 Action on Reported Changes for Prospectively Budgeted Households

.421 Continued

(a) Changes reported during the certification period shall be subject to the same verification procedures as apply at initial certification, except that the CWD shall not verify income, total medical expenses or actual utility expenses which are unchanged or have changed by \$25 or less. The CWD shall verify questionable information which is incomplete, inaccurate, inconsistent or outdated.

.422 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.12(b)(1)(iv) and 7 CFR 273.2(f)(8)(ii)

Amend MPP Section 63-504.631 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.6 Recertification of All Households (Continued)

.63 Process for Recertifying Nonmonthly Reporting
Households

.631 The following verification requirements shall
apply at recertification:

- (a) The CWD shall verify a change in income or actual utility expenses if the source has changed or the amount has changed by more than \$25.
- (b) The CWD shall verify previously unreported medical expenses and total recurring medical expenses which have changed by more than \$25.
- (c) Unchanged information, or changes of \$25 or less in income, total medical expenses or actual utility expenses shall not be verified at recertification, except for questionable information which is incomplete, inaccurate, inconsistent, or outdated.

.7 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.2(f)(8)(i)(A) and (C)

Amend MPP Section 63-505.1 to read:

53-505 HOUSEHOLD RESPONSIBILITIES

63-505

.1 Household Cooperation

.11 To determine eligibility the household or its authorized representative must:

.111 Complete and sign the application form;

.112 Be interviewed;

.113 Verify certain information on the application;
and

.114 Obtain a photo identification card in counties where photo ID cards are mandated as a condition of participation, unless exempt under Section 63-504.87.

(a) If a designated authorized representative does not comply, the household may designate a household member or another authorized representative to be photographed.

.12 Refusal to Cooperate with the CWD

.121 If the household, including excluded household members identified in Section 63-402.22, refuses to cooperate with the CWD in completing this process, the application shall be denied at the time of refusal.

(a) For a determination that household refusal has occurred, the household must have been able to cooperate, and clearly demonstrated that it chose not to take such actions as are required to complete the application process.

(b) If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied.

- .122 Refusal to disclose a Social Security Number (SSN) is an exception to the denial of the entire household. When an individual is required to give his/her SSN and has refused to comply, the eligibility of the other household members will not be affected (see Section 63-404).
- .123 The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes, recertifications, or as part of a quality control review.
- .124 Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until the household cooperates.
- .13 Refusal to Cooperate with a Quality Control (QC) Reviewer
 - .131 Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until:
 - (a) The household cooperates; or
 - (b) The household reapplies at least 95 days after the end of the annual review period in which the refusal to cooperate with a nonfederal QC reviewer occurred; or
 - (c) The household reapplies after seven months from the end of the annual review period in which the refusal to cooperate with a federal QC reviewer occurred.
 - .132 These households shall provide verification of all eligibility requirements, including items that would normally only be verified if questionable, as specified in Section 63-300.53.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.2(d)(1)

Amend MPP Section 63-505.2 to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued)

63-505

.2 Monthly Reporting/Retrospective Budgeting Households

All households participating in the Food Stamp Program except as provided in Section 63-505.21, shall report household circumstances monthly on the CA 7 as a condition of eligibility. Households shall not be required to submit any reports of changes other than the CA 7.

.21 The following households shall be excluded from monthly reporting and retrospective budgeting. See Section 63-504.43 for those households receiving PA.

.211 Migrant farmworker households, as defined in Section 63-102(m).

.212 Seasonal farmworker households.

.213 Households in which all adult members are elderly or disabled, as defined in Section 63-102(e), and have no earned income.

.214 Households in which all members are homeless individuals, as defined in Section 63-102(h)(1).

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.21(b)

Adopt MPP Section 63-505.34 to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued)

63-505

.3 Reported Information for Monthly Reporting Households

Households shall report on a monthly basis, the following information about the household: (Continued)

- .34 All allowable medical expenses unless the household elects to report only changes of \$25 in total.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.21(h)(3)(iii)

Amend MPP Section 63-505.4 to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued)

63-505

.4 Verification Responsibilities for Monthly Reporting Households

Monthly reporting households shall provide verification of the following information reported on the CA 7:

- (a) (Continued)
- (b) Dependent care costs when there is a change in the source or amount and when there is questionable information which is inaccurate, incomplete, outdated or inconsistent.
- (c) Medical expenses with each CA 7. However if the household elects the option of only reporting changes of more than \$25 in total, then verification is only required when the change is reported or when there is questionable information which is inaccurate, incomplete, outdated or inconsistent.
- (d) (Continued)
- (e) Utility costs, if the household is claiming actual expenses, when there is a change since the last report or when there is questionable information which is inaccurate, incomplete, outdated or inconsistent.
- (f) Shelter costs when the household moves or when there is a change in the amount or when there is questionable information which is inaccurate, incomplete, outdated or inconsistent.
- (g) through (i) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.21(i)(1)

Amend MPP Section 63-505.511 to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued)

63-505

.5 Reporting Changes for Households Excluded from Monthly Reporting Requirements

.51 Household Responsibility to Report (Continued)

.511 Changes in the sources of income, in the amount of gross monthly income or total medical expenses of more than \$25 (see Section 63-502.33).

(a) Changes in the public assistance or the general assistance grant are not required to be reported. Since the CWD has prior knowledge of all changes in these grants, action shall be taken on the CWD information.

(b) Households are not required to report changes in income that result from Social Security COLAs.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.12(a)(1)(vi)

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In this office of the Secretary of State
of the State of California

MAR 21 1990

At 4:14 o'clock P.M.

MARCH FONG EU, Secretary of State

By Laurela Guzz
Deputy Secretary of State

This certifies that the regulations submitted in the
rulemaking file identified below were reviewed and approved
by the Director of the Office of Administrative Law in the
city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 90-0226-01


LINDA BREWER
DIRECTOR

03/21/90

90-0228-05C

(See Instructions on Reverse)

RDB 0989-38
RDB 0190-05

CERT

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

MAR 27 1990

Office of Administrative Law

For use of Office of Adm Law

Sheet is true and correct.

Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

2-27-90

FILED

In this office of the Secretary of State
of the State of California

MAR 27 1990
At 4:12 o'clock P. M.
MARCH FONG EU, Secretary of State
By Paula Cruz
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

63-085

SECTIONS AMENDED:

63-502 and 63-503

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public: 63-502

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

November 3, 1989

- b. DATE OF FINAL AGENCY ACTION

February 27, 1990

- c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

January 26, 1990 through 5:00 p.m.
February 13, 1990

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

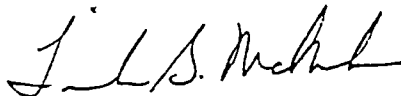
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

Adopt Section 63-085 to read:

63-085 IMPLEMENTATION OF DISASTER ASSISTANCE ACT
(PL 100-387)

63-085

- .1 Effective November 1, 1989, the CWDs shall implement the amended or adopted provisions in Sections 63-502.2(b)(2)(D) and 63-503.13 for all new food stamp applications and continuing cases.
- .2 For continuing cases and any households entitled to restored benefits, these provisions shall be implemented and appropriate restoration of benefits made:
 - .21 Upon request by the household;
 - .22 At recertification;
 - .23 When the case is next reviewed; or
 - .24 When the CWD becomes aware that a review is needed, whichever occurs first.
- .3 Restored benefits to any entitled households are to be provided back to the date of application or September 1, 1988, whichever occurred later.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 272.1(g)(109)(i), 273.9(c)(1)(ii)(E), and 273.10(a)(1)(ii).

Amend Section 63-502.2(b)(2) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)

63-502

.2 Income Exclusions (Continued)

(b) Vendor payments. Money that is not legally obligated to be paid to the household, but which is paid to a third party for a household's expense by a person or organization outside of the household. (Continued)

(2) A PA or GA payment shall be considered an excludable vendor payment and not counted as income to the household if such PA or GA payment is for: (Continued)

(D) Housing assistance payments made to a third party on behalf of a household residing in temporary housing (see Section 63-102(t)), which lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption. Such vendor payments shall be excluded under this provision if paid to the housing provider during the period beginning October 20, 1987 and ending September 30, 1990.

(E) Emergency assistance provided to a third party on behalf of a migrant or seasonal farmworker household during the period the household is in the job stream.

HANDBOOK BEGINS HERE

1. This assistance may include, but is not limited to, emergency vendor payments for housing or transportation.

HANDBOOK ENDS HERE

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(1)(ii)(D) and (E).

Amend Section 63-503.13 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT
LEVELS

63-503

.1 Month of Application (Continued)

.13 A household's benefit level for a) the initial month of certification, or b) the first month for which the household is certified for participation in the Food Stamp Program following any period during which the household was not certified for participation, shall be prorated from the date the application is received in the appropriate office except for migrant and seasonal farmworker households. Migrant and seasonal farmworker households which have a break in participation of 30 days or less shall not have their benefits prorated. They shall receive benefits for the whole month.

.131 Using a calendar or fiscal month, households shall receive benefits prorated from the date of application to the end of the month. Refer to Handbook Section 63-1101 for Reciprocal Table for computing first month benefits.

.132 After determining the prorated allotment, the CWD shall round the product down to the nearest lower whole dollar. If the computation results in an allotment of less than \$10, then no issuance shall be made for the whole month.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.10(a)(1)(ii).

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In this office of the Secretary of State
of the State of California

MAR 27 1990

At 4:12 o'clock P.M.

MARCH FONG EU, Secretary of State

By Joella Cruz
Deputy Secretary of State

This certifies that the regulations submitted in the
rulemaking file identified below were reviewed and approved
by the Director of the Office of Administrative Law in the
city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 90-0228-05


LINDA BREWER
DIRECTOR

03/27/90

FACE SHEET

(See Instructions on Reverse)

RDB #0190-06

1990 MAR 20 PM 2:03

OFFICE OF
ADMINISTRATIVE LAW

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW
EMERGENCY
DECLARATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

FILED
In this office of the Secretary of State
of the State of California

ENDORSED
APPROVED FOR FILING
MAR 30 1990

Department of Social Services

(AGENCY)
Li S. Michel

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 3-19-90

MAR 30 1990
At 3:49 o'clock P. M.
MARCH FONG EU, Secretary of State
By Isabella Cruz
Deputy Secretary of State

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE
Rosalie Clark, Chief, Regulations Development Bureau 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP SECTIONS ADOPTED: See attached.
SECTIONS AMENDED: 22-001, 22-022, 40-107, 40-131, 40-173, and 42-750
SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER N/A

b. DATE OF FINAL AGENCY ACTION MAR 19 1990

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State. (April 1, 1990)
- c. ☐ Effective on _____ as required or allowed by the following statute(s):
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
- Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary).
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

STD Form 400 (Cont.)

RDB #0190-06

Page 2

3.a.

Sections Adopted: 40-007, 47-100, 47-101, 47-102, 47-105, 47-110, 47-120, 47-125,
47-130, 47-140, 47-145, 47-150, 47-155, 47-160, 47-165, 47-170,
47-175, 47-180, 47-185, and 47-190


DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

Amend Section 22-001(a)(3) to read:

22-001 DEFINITIONS

22-001

(a) (Continued)

(3) Aid - For purposes of this Division "aid" includes all public assistance programs subject to a state hearing.

(A) Such programs include Aid to Families with Dependent Children (AFDC), the State administered programs for recipients of SSI/SSP (Division 46), Refugee Resettlement Program (RRP), the Cuban/Haitian Entrant Program (CHEP), the Food Stamp Program (FS), the California Medical Assistance Program (Medi-Cal), the Transitional Child Care Program (TCC), the Social Services Programs described in Division 30 of the Manual of Policies and Procedures (MPP), Women, Infant and Children Program (WIC), Aid for the Adoption of Children Program (AAC), Adoption Assistance Program (AAP), and Multipurpose Senior Services Program (MSSP).

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; and 45 CFR Part 256.

Amend Section 22-022.6 and renumber existing Sections 22-022.6, .7, and .8 to Sections 22-022.7, .8, and .9, respectively, to read:

22-022 TIMELY NOTICE - AID PENDING HEARING (Continued) 22-022

.6 Aid Pending a Hearing

.61 In the Transitional Child Care (TCC) program, benefits shall be paid pending the outcome of a state hearing in the amount requested by the family up to the reimbursement maximum or actual cost less the family fee, whichever is less, currently approved by the county, subject to the following conditions:

.611 Benefits shall not be paid pending beyond the 12-month TCC eligibility period.

.612 The family has filed for or requested a state hearing within ten calendar days of the notice of action, or within ten calendar days of the date a child care payment is issued when the family is dissatisfied with the amount of the payment.

HANDBOOK BEGINS HERE

.613 Example: The TCC family was approved for TCC up to a reimbursement maximum of \$275. The TCC family's actual costs less the family fee had been \$250 for the three preceding months. The provider increased the rate to \$300 after deduction of the family fee, but the family still only paid the provider \$250 plus the family fee. The family submits a request for payment in the amount of \$300, after deduction of the family fee. However, the provider signed the request and indicated receipt of payment for the family fee and \$250. The county issues a payment of \$250. The family files for aid paid pending. The county would issue payment of an additional \$25 pending the outcome of the hearing. This is the \$250 originally paid and the additional \$25 which takes the family up to the reimbursement maximum.

HANDBOOK ENDS HERE

.67 (Continued)

.671 (Continued)

.6711 (Continued)

.§72 (Continued)
.§73 (Continued)
 .§731 (Continued)
 .§732 (Continued)
.§74 (Continued)
 .§741 (Continued)
.§75 (Continued)
 .§751 (Continued)
.§76 (Continued)
.78 (Continued)
 .781 (Continued)
.89 (Continued)
 .891 (Continued).

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 256.2(c); and 45 CFR 256.4(d).

Adopt Section 40-007 to read:

40-007 IMPLEMENTATION OF THE TRANSITIONAL CHILD CARE PROGRAM

40-007

- .1 The adoption of Division 47 and amendment of Sections 20-001(a)(3)(A), 22-022.6, 40-107.1, 40-131.3, 40-173, and 42-750 which implement the Transitional Child Care (TCC) program shall be effective April 1, 1990. Counties are required to meet the TCC and Transitional Medi-Cal informational requirements at application, redetermination and discontinuance beginning April 1, 1990.

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- .2 Division 47 is being adopted to implement the Transitional Child Care (TCC) program in compliance with the Family Support Act of 1988 and Part 256 of the final Federal Rules published October 13, 1989 (45 CFR 256). These provisions require that certain former AFDC recipients will be eligible to receive funding of their child care expenses under certain conditions up to a year following their last month of AFDC eligibility.
- .3 Sections 22-001(a)(3)(A) and 22-022.6 are being amended to comply with the notice and hearing requirements in the Family Support Act of 1988 which pertain to the TCC program.
- .4 Sections 40-107.1 and 40-131.3 are being amended to require that all AFDC applicants and recipients are informed about the TCC program at the time of AFDC application and redetermination.
- .5 Section 40-173 is being amended to require that certain AFDC recipients are informed about their potential eligibility for TCC at the time of AFDC termination.
- .6 Section 42-750 pertaining to a GAIN TCC program is being repealed as the program is being superseded by Division 47.

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Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 250.20(a)(3); 45 CFR 255.1; and 45 CFR 256.1(b).

Amend Section 40-107.1 to read:

40-107 COUNTY RESPONSIBILITY

40-107

.1 Assisting the Applicant (Continued)

.14 At the time of request for TCC program benefits, applicants/recipients shall be informed in writing of the following:

.141 The availability of transitional child care and transitional Medi-Cal.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 250.20; 45 CFR 250.40(b); 45 CFR 255.1; and 45 CFR 256.1(b).

Amend Section 40-131.3 to read:

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

.3 Content of Application Interview

The application interview shall include discussion of the following as pertinent: (Continued)

- r. The availability of transitional child care benefits and transitional Medi-Cal benefits for recipients who are discontinued from AFDC due to certain employment-related circumstances.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 250.20; 45 CFR 250.40(b); 45 CFR 255.1; and 45 CFR 256.1(b).

Amend Section 40-173 to read:

40-173 COUNTY DEPARTMENT RESPONSIBILITY FOR NOTIFYING APPLICANTS AND RECIPIENTS 40-173

Prior to county action (except as provided in .7 below), the applicant or recipient shall be (a) notified of any county action which relates to his application, affects aid payment to him or his certification for medical assistance, or affects aid payment to him or his family, and (b) informed of his responsibility for reporting facts material to the determination of his eligibility. Such notification, advice, etc., shall be in simple understandable language. Required notifications are: (Continued)

.8 Notification of Potential Transitional Child Care Program Eligibility

.81 All recipients shall be notified of their potential eligibility for benefits under the Transitional Child Care program when they become ineligible for AFDC due to:

- .811 Increased earned income due to employment;
- .812 Loss of the time limited income disregards;
- .813 Increased hours of employment; or
- .814 Failure to submit a completed monthly report.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 250.20; 45 CFR 250.40(b); 45 CFR 255.1; 45 CFR 256.1(b); and 45 CFR 256.2(b)(1).

Amend Section 42-750.2 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

.2 (Continued)

.22 (Continued)

.221 Assist participants in locating child care necessary for participation in GAIN and for the post program transition period consistent with section 124 below. In so doing, the CWD shall:
(Continued)

.23 (Continued)

124 If a GAIN registrant terminates AFDC dependency due to unsubsidized employment, payment for child care services in accordance with section 1221 above shall be available for a transition period of three months.

(a) This transition period commences immediately following the discontinuance of AFDC.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, and 11320.3(f), Welfare and Institutions Code; and 45 CFR Part 256.

Adopt Division 47, Chapter 47-100, and Handbook Section 47-101 to read:

DIVISION 47 FAMILY SUPPORT PROGRAMS

CHAPTER 47-100 TRANSITIONAL CHILD CARE

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47-101 INTRODUCTION TO TRANSITIONAL CHILD CARE

47-101

Transitional Child Care (TCC) was mandated by the Family Support Act of 1988. It provides funding for child care to former AFDC recipients for up to 12 months when certain eligibility criteria are met. The objective of TCC is to assist families transitioning to self sufficiency and independence from welfare. This is accomplished by partially paying for child care while a family member is working.

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Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; and 45 CFR Part 256.

Adopt Section 47-102 to read:

47-102 DEFINITIONS

47-102

The following definitions pertain only to Chapter 47-100. The definitions shall be used in conjunction with the balance of the Transitional Child Care program regulations and do not stand alone.

- (a) "Date of Receipt" means the postmarked date for the material that is mailed or the actual date for material that is delivered by hand or telephoned in.
- (b) "Eligibility Period" means the 12 consecutive calendar months for which TCC payments may be received beginning with the first day of the first calendar month of ineligibility for federal AFDC.
- (c) "Exempt from Licensing" means a child care provider who is not required to obtain a day care license because:
 - (1) The child care provider cares for the children of only one family in addition to his/her own children;
 - (2) The child care provider is related to the children for whom care is given; or
 - (3) The child care provider is a school district which operates an after school program.
- (d) "Family Fee" means the TCC family's share of cost for child care.
- (e) "Good Cause" means a compelling reason for terminating employment based on the reasons specified in the AFDC and GAIN programs, as specified in Sections 41-440.264 and 42-782, or other reasons as determined by the county.
- (f) "Income" means the gross monthly earned income of all members in the TCC family.
- (g) "Payment Plan" means a written document signed by the child care provider and TCC family which outlines the TCC family's methods for paying delinquent family fees, and specifies the terms of payment, the monthly amount of payment and the time period over which the payment is to be made.
- (h) "Regional Market Rate" means the costs of child care in each county differentiated by age of child and type of care.
- (i) "Reimbursement Ceiling" means the 75th percentile of the regional market rate.

(j) "TCC" means the Transitional Child Care program.

(k) "TCC Child" means the child for whom TCC program benefits have been requested or are being received.

(l) "TCC Family" means the persons included when establishing the family size and determining income for computing the family fee.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; and 45 CFR Part 256.

Adopt Section 47-105 to read:

47-105 APPLICANT RESPONSIBILITIES

47-105

.1 Time and Place of Request for TCC Program Benefits

- .11 The applicant shall submit a request for TCC program benefits in the county of residence.
- .12 When the date of receipt of the request for TCC program benefits is later than the last day of the eligibility period, the request shall not be approved.

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- .121 Example: The family becomes ineligible for AFDC on May 1, 1990. The eligibility period begins on that date and ends on the last day of April 1991; therefore the applicant must request TCC program benefits no later than April 30, 1991.

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- .13 The applicant shall be permitted to submit the request for TCC program benefits prior to the family's discontinuance from AFDC.
- .2 Written Request for TCC Program Benefits
 - .21 The applicant shall submit a written request.
 - .211 The applicant shall be permitted to submit the written request for TCC program benefits by mail.
- .3 Verbal Request for TCC Program Benefits
 - .31 The applicant shall be permitted to request TCC program benefits verbally when the following conditions are met:
 - .311 The family received AFDC in the same county from which TCC program benefits are requested.
 - .312 The family makes the verbal request for TCC program benefits no later than seven calendar days after the beginning of the eligibility period.

.32 In order to receive timely determination the applicant making the verbal request shall nonetheless submit the written request for TCC program benefits:

.321 Within ten calendar days of the verbal request; or

.322 Within four calendar days of the verbal request when the verbal request includes a request for an advance payment.

.4 Face-to-Face Interview

.41 The applicant shall attend a face-to-face interview when determined necessary by the county.

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.411 Example: The county may require a face-to-face interview:

(a) When the family received AFDC in a different county or state;

(b) When the family received TCC in a different county or state; or

(c) When information needed to determine eligibility is not contained in the AFDC or TCC case files.

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.5 Submittal of Information

.51 The applicant shall provide information required to determine program eligibility, including but not limited to:

.511 Proof of employment of the TCC family member whose employment results in ineligibility for AFDC;

.512 Duration of receipt of AFDC;

.513 Proof of or application for a social security number for each member of the TCC family who would be included in the assistance unit if the family were receiving AFDC;

.514 Proof of the ages of the TCC children;

.515 Missing monthly reports which caused discontinuance from AFDC; and

.516 Proof of legal residence status for those who would be included in the assistance unit if the family were receiving AFDC.

.52 The applicant shall provide information required to determine the family fee, including:

.521 Gross earned income; and

.522 TCC family composition.

.6 Penalty of Perjury

.61 The applicant shall sign under the penalty of perjury that information submitted with the written request for TCC program benefits is true and correct to the best of his/her knowledge.

.7 When Request for TCC Program Benefits Is Denied

.71 If the request for TCC program benefits is denied, the applicant shall be permitted to request TCC program benefits again.

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.711 Example: At the time the request for TCC program benefits was submitted, the family had only one child who was 13. The request for program benefits was denied. Two months later, a seven-year-old child returns to the home. The family now meets all eligibility requirements and is eligible for TCC program benefits during the remaining months in its eligibility period. The family may submit a new request for TCC program benefits.

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.8 The applicant shall assume the responsibility within his/her physical, emotional, educational or other limitations for providing information necessary to determine eligibility.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10603, 11102, and 11209, Welfare and Institutions Code; 45 CFR 255.4(h), (i), and (j); 45 CFR 256.1(a)(4) and (b); 45 CFR 256.2(a), (b)(2), (b)(3), and (c); and 45 CFR 256.3(a) and (b); and 45 CFR 256.4(b).

Adopt Section 47-110 to read:

47-110 COUNTY RESPONSIBILITIES

47-110

.1 General

.11 The county shall inform the applicant of his/her rights, responsibilities and potential TCC program benefits.

.12 The county shall assist the applicant in understanding his/her rights and responsibilities in relation to the request for TCC program benefits.

.2 Eligibility Determination

.21 The county shall be responsible for determining if the applicant meets the eligibility requirements.

.3 TCC Case File

.31 The county shall establish a TCC case file.

.311 The AFDC case file shall be accessible when the county is determining eligibility based on information in the AFDC case record.

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.312 The county may retain a TCC case file within the AFDC file to eliminate duplication of records.

HANDBOOK ENDS HERE

.32 The county shall retain TCC case files in accordance with normal practices for records retention of public assistance cases, as specified in Manual of Policies and Procedures Chapter 23-350.

.4 Verifications

.41 The county shall verify all elements of TCC program eligibility.

.411 The county shall not reverify any information contained in the AFDC case file when the county determines the verification is still valid.

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- (a) Example: The county has a copy of a birth certificate in the AFDC case file for a child for whom TCC program benefits are requested. The county does not request another copy of the birth certificate from the family in order to verify the child's age.

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- .42 The county shall document the date of the verbal request for TCC program benefits in the TCC case file.

.5 Action on Requests for TCC Program Benefits

.51 Verbal Requests for TCC Program Benefits

- .511 When verbal requests are permitted, the county shall grant or deny the request within 30 calendar days of its date of receipt, provided the applicant has submitted the written request within the time period required, as specified in Section 47-105.32.

- .512 When the family has not submitted the written request within the time period required:

- (a) No action shall be taken until the written request for program benefits is received.

- (b) The number of calendar days the family is late in submitting the written request for program benefits shall be added to 30 calendar days to determine the date by which the county must grant or deny the verbal request.

.52 Written Requests for TCC Program Benefits

- .521 The county shall grant or deny the request for TCC program benefits within 30 calendar days of the date of receipt by the county.

- .522 The county shall notify the TCC family by the tenth calendar day after the date of receipt of the request for TCC program benefits if additional information is needed to determine eligibility.

.523 The county shall deny the request for program benefits if the applicant has not provided the information needed to determine eligibility by the 20th calendar day after the county's original receipt of the request for TCC program benefits.

.53 Advance Payment Request Submitted With Request for Program Benefits

.531 The county shall grant or deny the request for TCC program benefits within seven calendar days of its receipt when:

(a) The request for TCC program benefits is accompanied by a request for advance payment; and

(b) The family has met all requirements pertaining to the request for TCC program benefits.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 250.20; 45 CFR 255.1; 45 CFR 255.3(a)(3); 45 CFR 255.4(i)(1) and (2); and 45 CFR 256.1, .2, and .4.

Adopt Section 47-120 to read:

47-120 PROGRAM ELIGIBILITY

47-120

- .1 A family shall meet the following conditions to be eligible for TCC:
 - .11 The family is not receiving AFDC.
 - .12 The family became ineligible for federal AFDC on or after April 1, 1990 as a result of:
 - .121 Increased hours of employment;
 - .122 Increased income from employment;
 - .123 Loss of income disregards due to the time limitations; or
 - .124 Failure to submit the monthly income report, if the family is able to prove they also met one of the conditions as specified in this subsection.

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- (a) Example: The caretaker relative found employment in May and did not submit the May CA7 because she believed the family would no longer be eligible for AFDC. She decides she needs help paying her child care costs and submits a request for TCC program benefits. In order for the county to determine eligibility, she completes the outstanding May CA7. The county determines based on the CA7 that the family would have been AFDC ineligible due to increased income had the CA7 been submitted timely; therefore, the family is eligible to TCC program benefits.
- (b) Example: Same situation as above, except the county determines based on the CA7 that the family would have been eligible for a \$15 AFDC grant in May. The family would not have been ineligible for AFDC due to increased income or hours of employment, or loss of the time limited income disregards; therefore, the family is not eligible for TCC program benefits.

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.13 The family shall have been eligible to and received federal AFDC in at least three of the six months immediately preceding the first month of ineligibility.

.131 A suspense month or a zero basic grant month counts as a month in which AFDC was received.

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- (a) A family is discontinued from AFDC in June and is ineligible for AFDC in July. The family was on AFDC in January, March and June. The family is eligible for TCC program benefits.
- (b) A family is discontinued from AFDC in June and is ineligible for AFDC in July. The family was on AFDC in April, May and June. The family is eligible for TCC program benefits.
- (c) The family received AFDC for 12 months in Year X and then is discontinued from AFDC on December 31, Year X. The family submits a request for TCC program benefits. The family is eligible for and receives TCC beginning January 1, Year Y. The caretaker is laid off the job and returns to AFDC effective March 1. The family receives AFDC through April 30 and is then discontinued due to increased earnings. The family submits a new request for TCC program benefits. The family meets the "three-of-the-last-six-months" requirement because the family received AFDC in December, Year X and in March and April in Year Y. If all eligibility requirements were met, the family would qualify for a new eligibility period commencing May 1.
- (d) The family received AFDC only in January and June and July. The family is discontinued effective August 1 and submits a request for TCC program benefits. The family does not meet the "three-of-the-last-six-months" requirement and is not eligible for TCC program benefits.

HANDBOOK CONTINUES

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- (e) A family received AFDC only in January, February and March. However, the only AFDC child left the home at the end of February. The family failed to contact the county. The March payment resulted in an overpayment. The family does not meet the three of the last six months' requirement and is not eligible for TCC program benefits.

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.14 The family shall have a child who is eligible for TCC program benefits.

.141 A child shall be eligible if he/she:

- (a) Was in the AFDC assistance unit (AU);
- (b) Was born or moved into the household after TCC program benefits began and would have been in the AFDC AU;
- (c) Receives benefits under federal foster care; or
- (d) Receives benefits under Supplemental Security Income/State Supplementary Payment (SSI/SSP) program.

.142 A child shall be eligible if he/she is:

- (a) Under the age of 13;
- (b) Physically or mentally incapable of caring for himself/herself based on a written statement of a physician or a licensed or certified psychologist and shall meet the age requirements under the AFDC program, as specified in Chapter 42-100; or
- (c) Under court supervision as specified in Welfare and Institutions Code Section 601 or 602 and shall meet the age requirement under the AFDC program, as specified in Chapter 42-100.

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- (1) For example, a family who meets eligibility requirements for TCC program benefits has a 14-year-old child who was adjudged to be a status offender as specified in Welfare and Institutions Code Section 601. The child is returned to his/her family but remains under court supervision. The family qualifies for TCC program benefits for the 14-year-old child.

HANDBOOK ENDS HERE

- .143 The child shall be eligible for TCC program benefits for the entire month when he/she is eligible on the first of the month.

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- (a) Example: The family's only child turns 13 on July 20. The family is eligible for TCC program benefits for the month of July.

HANDBOOK ENDS HERE

- .144 The child shall be eligible for TCC program benefits for only those days eligibility conditions are met when the child does not meet eligibility conditions on the first day of the month.

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- (a) Example: The mother of the TCC family has a baby on July 5. The mother returns to work on July 25 and places the baby in child care. The baby is eligible for TCC program benefits on July 25.

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- .145 The child for whom TCC program benefits are requested shall be living in the TCC family's home.

(a) The determination of whether the child is living in the home of the TCC family shall be consistent with the determination made in AFDC of whether a child is living in the home of a caretaker relative, as specified in Section 44-203.2.

.15 The family shall require child care:

.151 To permit a member of the AFDC family to accept or retain employment; and

.152 Because an adult in the TCC family is not available to care for the child.

.16 The TCC family shall cooperate in establishing child support payments and enforcing child support obligations for the children for whom TCC program benefits are requested.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 206.10; 45 CFR 232.12; 45 CFR 233.90; 45 CFR 255.4(f)(2); and 45 CFR 256.2 and .4.

Adopt Section 47-125 to read:

47-125 ELIGIBILITY PERIOD

47-125

.1 The eligibility period:

- .11 Begins on the first day of the first month the family is ineligible for federal AFDC; and
- .12 Continues for 12 consecutive calendar months.

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- .121 Example: A family member finds employment on September 15. The family is ineligible for AFDC effective September 30. The family's eligibility period is from October 1 through September 30 of the following year.
- .122 In the above example, the family works from October 1 through March 30 of the following year, at which time the employed family member is laid off. The family returns to AFDC in April, but is discontinued effective June 1, because the family member returns to the former position on June 1. The family meets all eligibility requirements and receives TCC program benefits from June 1 through September 30, which is the balance of its original eligibility period. The family does not receive TCC program benefits in April or May, since it was receiving AFDC. The family does not qualify for a new eligibility period because they did not receive AFDC in three of the last six months.

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- .2 The family shall be eligible to receive TCC program benefits during the eligibility period when all program and payment eligibility requirements, as specified in Sections 47-120 and 47-145, are met and the family has proof of expenses.
- .21 TCC program benefits shall be paid retroactively when all requirements were met in a prior month of the eligibility program.

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.211 Example: A family is eligible for TCC program benefits beginning in April. The family does not request TCC program benefits until July. Eligibility is determined and the family is able to show proof of child care expenses in April, May and June. Benefits will be paid retroactively for April, May and June.

HANDBOOK ENDS HERE

.3 A new eligibility period shall be established whenever the requirement of receipt of federal AFDC in three of the last six months is met.

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.31 Example: The family received TCC program benefits for three months. The mother lost her job, and the family returned to AFDC. After receiving AFDC for three months, the mother found another job which caused the family to be discontinued from AFDC. The mother requests TCC program benefits and is eligible for a new eligibility period.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; and 45 CFR 256.2(c) and (e)(2).

Adopt Section 47-130 to read:

47-130 FAMILY FEE DETERMINATION

47-130

- .1 The family fee assessed shall be based on:
 - .11 The number of persons in the TCC family; and
 - .12 The TCC family's gross earned income.
- .2 The TCC family shall include all of the following when living in the same home as the child for whom TCC program benefits are requested:
 - .21 Persons whose employment resulted in ineligibility to federal AFDC.
 - .22 Persons who were in the AFDC assistance unit when the family was on aid.
 - .23 Persons who are born or move into the home and would have been in the AFDC assistance unit.
 - .24 Persons who are legally responsible for any person who was or would have been in the assistance unit and any of their dependents living in the home.

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- .241 Example: A senior parent, minor parent and the minor's infant share a home. The minor parent and infant received AFDC. The senior parent's income was deemed to the family when the minor parent and infant received AFDC. The minor parent finds employment, is discontinued from AFDC and requests for TCC program benefits. The senior parent is included in the TCC family.
- .242 Example: A mother and two children received AFDC. A step-father and his separate child share the home, and the step-father's income was deemed to the family while the mother received AFDC. The family is discontinued due to the employment of the mother. The mother, two children and the step-father and his separate child are included in the TCC family.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- .243 Example: An undocumented alien mother received AFDC on behalf of her two citizen children. The undocumented alien mother finds employment. Her children are discontinued from AFDC and she applies for TCC. The undocumented mother and her two children are included in the TCC family.

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- .25 Siblings and half-siblings of the TCC child who were not in the assistance unit and who are under the age of 21.

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- .251 Example: A child was excluded from the assistance unit while the family received AFDC due to his undocumented alien status. This child is included in the family under TCC to determine TCC family fee and size. However, this child is not eligible for a TCC payment because he/she does not meet the program eligibility requirements.

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- .26 Children who are receiving federal AFDC foster care.
- .27 Children who are receiving Supplemental Security Income/State Supplementary Payment (SSI/SSP) program.

.3 Income

- .31 Income is the gross monthly earnings of all members of the TCC family.
- .311 Gross monthly earnings for self-employed TCC family members shall be determined in accordance with the AFDC program, as specified in Section 44-113.212.

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- .312 Example of determining income: A TCC family is paid \$1000 per month for farm work. The family is provided housing with an in-kind value of \$200 per month. The income is \$1000 per month.

HANDBOOK ENDS HERE

.32 The TCC family's monthly income shall be determined at the time of submission of a request for benefits.

.321 If the TCC family is unable to verify its monthly income at the time of written request, the county shall make its best estimate of the family's monthly income based upon the family's statement and information in the AFDC case file.

.33 The TCC family's monthly income shall be redetermined based on the following:

.331 The income information for each of the first three months of the eligibility period, unless the family submits a request for TCC program benefits after the third month of the eligibility period.

.332 Any other three months of the eligibility period preceding a request for a family fee recomputation by the family.

.34 Averaging Income

.341 When more than one month's income information is submitted, it shall be averaged to determine a monthly income.

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(a) Example: The family requests TCC in the sixth month of the eligibility period. The family submits three months of income information, covering the third through fifth month of the eligibility period. The county divides this three months of income by three to determine the monthly income.

HANDBOOK ENDS HERE

.4 The county shall use the current State Department of Education (SDE) Family Fee Schedule modified by the State Department of Social Services (SDSS) for the TCC program in accordance with Welfare and Institutions Code Section 11506(b) and is hereby incorporated by reference.

.41 SDSS has modified the Family Fee Schedule by:

.411 Converting the family fee to a monthly amount.

.412 Using the fee for part-time child care for all families.

.413 Eliminating any income eligibility test.

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.42 Family Fee Schedule

FAMILY FEE SCHEDULE Effective 4/1/90										
Monthly Fee	Number in Family									
	1-3	4	5	6	7	8	9	10	11	12+
	MONTHLY INCOME LEVEL									
\$ 21.00	\$1190	\$1417	\$1643	\$1870	\$1913	\$1955	\$1998	\$2040	\$2083	\$2125
25.00	1238	1473	1709	1945	1989	2033	2077	2122	2166	2209
29.00	1285	1530	1774	2020	2066	2111	2157	2203	2249	2294
36.00	1333	1586	1840	2094	2142	2190	2237	2285	2332	2379
42.00	1380	1643	1906	2169	2219	2268	2317	2366	2416	2464
48.00	1428	1700	1972	2244	2295	2346	2397	2448	2499	2549
55.00	1476	1756	2037	2319	2372	2424	2477	2530	2582	2634
61.00	1523	1813	2103	2394	2448	2502	2557	2611	2666	2719
67.00	1571	1870	2169	2468	2525	2581	2637	2693	2749	2804
74.00	1618	1926	2234	2543	2601	2659	2717	2774	2832	2889
80.00	1666	1983	2300	2618	2678	2737	2797	2856	2916	2974
86.00	1714	2040	2366	2693	2754	2815	2876	2938	2999	3059
96.00	1761	2096	2432	2768	2831	2893	2956	3019	3082	3144
105.00	1809	2153	2497	2842	2907	2972	3036	3101	3165	3229
114.00	1856	2210	2563	2917	2984	3050	3116	3182	3249	3314
124.00	1904	2266	2629	2992	3060	3128	3196	3264	3332	3399
133.00	1952	2323	2695	3067	3137	3206	3276	3346	3415	3484
143.00	1999	2380	2760	3142	3213	3284	3356	3427	3499	3569
152.00	2047	2436	2826	3216	3290	3363	3436	3509	3582	3654
162.00	2094	2493	2892	3291	3366	3441	3516	3590	3665	3739
171.00	2142	2550	2957	3366	3443	3519	3596	3672	3749	3824
181.00	2190	2606	3023	3441	3519	3597	3675	3754	3832	3909
190.00	2237	2663	3089	3516	3596	3675	3755	3835	3915	3994
200.00	2285	2720	3155	3590	3672	3754	3835	3917	3998	4079
209.00	2332	2776	3220	3665	3749	3832	3915	3998	4082	4164
218.00	2380	2833	3286	3740	3825	3910	3995	4080	4165	4249

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.5 Instructions for using the Family Fee Schedule

- .51 Select from columns 1 through 12 the column appropriate for family size.
- .52 Find the monthly TCC family income in that column by:
 - .521 Locating the upper and lower figures into which the TCC family income falls; and
 - .522 Using the figure which is the lower amount.
- .53 A family fee is assessed which corresponds with the Monthly Fee in the left-hand margin.
 - .531 Example: A family of four persons has gross monthly earnings of \$1689. Find the family size under column 4. In this case, \$1689 is between \$1643 and \$1700. The family fee which corresponds with \$1643 is used. The monthly family fee is \$42.

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.6 Family Fee Requirement

- .61 A minimum family fee equal to the lowest Monthly Fee on the Family Fee Schedule shall be paid by a TCC family whose income is less than the lowest income for their family size.
- .62 A maximum family fee equal to the highest Monthly Fee on the Family Fee Schedule shall be paid by a TCC family whose income is higher than the highest income for their family size.
- .63 The family shall pay the family fee that has been assessed directly to the provider each month.

.7 Initial Family Fee

- .71 When a family requests TCC program benefits within the first three months of its eligibility period the family fee based on TCC family size and income information submitted with the request for program benefits shall be in effect for the first six months of the eligibility period, unless the family requests a family fee recomputation.

.72 When a family requests TCC program benefits in the fourth through twelfth month of its eligibility period the family fee based on TCC family size and income information submitted with the request for TCC program benefits shall be in effect for the entire eligibility period, unless the family requests a family fee recomputation.

.8 Recomputation of Family Fee

.81 The family fee based on income from the first three months of the eligibility period shall be in effect during the second six months of the eligibility period, unless the family requests a family fee recomputation.

.82 The TCC family shall be permitted to request a family fee recomputation at any time during the eligibility period.

.821 The family shall submit TCC family size information and income information for each of the three months of the eligibility period preceding the request in order to receive a family fee change.

.822 A family fee change requested by the TCC family becomes effective the first of the month following 30 calendar days after the income information upon which the recomputation is based, is received.

.83 The family fee shall be unchanged during the interval between recomputations.

.9 The county shall verify the information upon which the family fee determination is based.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11320.3(f), and 11506, Welfare and Institutions Code; 45 CFR 256.0; 45 CFR 256.2(a); and 45 CFR 256.3(a), (b), and (d).

Adopt Section 47-140 to read:

47-140 ELIGIBLE PROVIDERS

47-140

- .1 The TCC family shall be permitted to choose the child care arrangement.
- .2 The TCC family shall be eligible for TCC payment only when the provider meets all of the following conditions:
 - .21 The child care provider shall be 18 years old or older;
 - .22 The child care provider shall not be a parent or legal guardian of the TCC child;
 - .23 The child care provider shall not be a member of the TCC family; and
 - .24 The child care provider shall have a day care license or be exempt from licensing.
 - .241 At the time of request for TCC program benefits the county shall explain the licensing requirement to the family.
 - .242 The county shall accept the family's written certification that the provider meets this requirement.

Authority Cited: Sections 10553, 10554, and 10604 Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 255.3(c); 45 CFR 255.4(c)(2) and (f)(2); 45 CFR 255.5(a) and (b); and 45 CFR 256.4(a) and (b).

Adopt Section 47-145 to read:

47-145 PAYMENT ELIGIBILITY

47-145

.1 The county shall only issue a TCC payment when the child care hours utilized are reasonably related to the hours worked.

.11 Reasonably related hours shall be based on a provider's standard billing practice for nonsubsidized child care.

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.111 Example: A day care provider charges all families based on a weekly rate. The provider charges for any days the TCC child is absent. The provider also charges for days the parent is on holiday. Since this is the provider's billing practice for nonsubsidized families, a request for payment which includes these days meets the reasonably related requirement.

.112 Example: A provider charges all families based on an hourly rate. The provider only charges for hours of care provided. The TCC child attends school and needs only after-school care. The county would compare the hours worked to the hours of care, taking into consideration the time the child is in school.

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Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Section 10613 and 11209, Welfare and Institutions Code; 45 CFR 255.1(e)(4); and 45 CFR 256.1(b).

Adopt Section 47-150 to read:

47-150 PAYMENT INELIGIBILITY

47-150

.1 Delinquent Family Fee

.11 The TCC family shall be ineligible to receive payment of child care expenses when the family is delinquent in the payment of its family fee.

.12 The TCC family fee payment shall be considered delinquent on the date the county becomes aware that the TCC family:

.121 Has not paid its family fee and the family fee is past due; or

.122 Has not honored its approved payment plan.

.13 When the family is delinquent in paying its family fee, a notice of action shall be used to inform the TCC family of the termination of TCC program benefits on the first day of the month following 30 calendar days after the notice is issued, in the following instances:

.131 If the TCC family does not submit a payment plan.

.132 When the county has been notified by the provider that the TCC family is not complying with the approved payment plan.

.14 Payment of Delinquent Family Fees

.141 The TCC family shall develop a written plan for payment of delinquent family fees.

(a) The TCC family shall obtain the provider's signature on the payment plan as acceptance of the plan.

(b) The TCC family shall sign the plan.

(c) The TCC family shall submit the plan to the county for approval.

.142 The payment plan shall specify the following:

- (a) Terms of payment;
- (b) Monthly amount of payment; and
- (c) Time period over which the payment is to be made.

.143 The county shall notify the TCC family whether the payment plan has been approved or determined to be unacceptable.

- (a) Notification of acceptance or rejection of the payment plan shall be sent to the TCC family within 10 calendar days of the date of receipt of the payment plan.

.15 The county shall continue monthly TCC program benefits during this time period if:

.151 The TCC family pays current family fees when due; and

.152 The TCC family complies with the provisions of the payment plan.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 256.3(e); and 45 CFR 256.4(d).

Adopt Section 47-155 to read:

47-155 PAYMENT DETERMINATION

47-155

.1 A payment is based on costs of at least one calendar month, with the exception of:

.11 The county shall have the ability to accept a payment request which does not match a calendar month in individual cases when the deviation is due to a child care provider's billing cycle.

.111 The county shall assure that no duplication of payment occurs.

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(a) Example: A provider bills for child care on a weekly basis. In January the fifth week of the month continues into the first two days of February. The family's request for payment for January includes a receipt of payment for this fifth week. The county may issue a reimbursement including this fifth week, but must make sure the two days of February are not included in the February request for payment.

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.2 Payments shall be rounded to the nearest dollar with amounts of 50 cents or more rounded to the next higher dollar figure.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 255.4(a) and (a)(2)(iii); 45 CFR 255.4(i)(3); 45 CFR 256.3(a); and 45 CFR 256.4(b).

Adopt Section 47-160 to read:

47-160 TCC PAYMENT AMOUNT

47-160

.1 The TCC payment shall be the lesser of:

.11 The TCC family's actual monthly child care cost for TCC children less the family fee; or

.12 The reimbursement maximum.

.121 The reimbursement maximum is:

(a) The lesser amount of the actual child care cost for each child compared to the reimbursement ceiling for each child; and

(b) The sum of the lesser amounts.

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.122 Example: The TCC family has an infant and a 10-year-old. The actual child care cost for the infant is \$250 and the reimbursement ceiling for the infant is \$275. The actual cost for the 10-year-old is \$200 and the reimbursement ceiling for the 10-year-old is \$180. The reimbursement maximum is the sum of \$250 for the infant (actual cost which is the lesser amount) and \$180 for the 10-year-old (reimbursement ceiling which is the lesser amount). The total reimbursement maximum is \$430.

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.2 The TCC family shall pay all child care costs in excess of the TCC payment.

.3 Actual Cost

.31 Actual cost includes any employer tax, workers' compensation or employer insurance paid by the TCC family on behalf of an exempt child care provider.

.4 Reimbursement Ceiling

.41 The reimbursement ceiling shall be determined from the most current survey conducted by the California Child Care Resource and Referral Network in accordance with Welfare and Institutions Code Section 11320.3(f) and is hereby incorporated by reference.

- .411 The reimbursement ceiling shall be based on the county in which child care is being provided.
- (a) For those families who reside in counties that are adjacent to the state's border and have child care that is provided in an adjoining state, the reimbursement ceiling shall be determined according to the TCC family's county of residence in California.
- .412 The reimbursement ceiling shall be based on the child's age or special needs.
- .413 The reimbursement ceiling shall be based on whether the child care provider is licensed as a family day care provider or as a child care center, or whether the child care provider is exempt from licensure.
- .42 The reimbursement ceiling shall be converted to a monthly reimbursement ceiling.
- .421 When the county has accepted a request for payment which does not match a calendar month, the reimbursement ceiling shall be adjusted to coincide with the time period of the request for payment.
- .43 Changes in the reimbursement ceiling shall be applied as follows:
- .431 An increase in the reimbursement ceiling for a child shall become effective on the first of the month in which the change occurs.
- .432 A decrease in the reimbursement ceiling for a child shall become effective on the first of the month following the change.

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- .433 Example: A child's birthdate falls on March 12. The child goes from the infant category to the pre-school category. The decrease in the reimbursement ceiling becomes effective on April 1.

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.434 Example: A TCC family moves from Alameda to San Francisco County on August 5. The reimbursement ceiling for San Francisco in all categories is higher than Alameda. The effective date of the new reimbursement ceiling based on the San Francisco levels is August 1.

.5 Payment Computations*

.51 Example: The TCC family chooses a child care provider with a monthly charge of \$325. The family fee is assessed at \$50. The county selects the appropriate reimbursement ceiling from the most current California Child Care Resource and Referral Network Survey. The reimbursement ceiling is \$250.

<u>.511</u>	<u>Actual cost less family fee</u>	<u>\$325</u>
		<u>- 50</u>
		<u>\$275</u>

<u>.512</u>	<u>Reimbursement maximum</u>	<u>\$250</u>
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<u>.513</u>	<u>TCC payment is whichever is less:</u>	<u>\$250</u>
	<u>(The actual cost less family fee</u>	
	<u>or reimbursement maximum.)</u>	

.514 The TCC family must pay all costs over the \$250.

.52 Example: A TCC family living in Contra Costa County consists of 2 people (1 adult, 1 child of pre-school age). The gross monthly earnings of the TCC family are \$1540. The child attends a licensed child care center and has full-time actual child care costs of \$16 per day for 21 days or \$336 for the month.

.521 Determine the family fee

Choose the line on the family fee schedule for a family size of 1-3 and an income amount of \$1540. This income falls between \$1523 and \$1571; therefore, the fee of \$61 which is shown for \$1523 is used.

<u>.522</u>	<u>Actual cost less the family fee</u>	<u>\$336</u>
		<u>- 61</u>
		<u>\$275</u>

<u>.523</u>	<u>Reimbursement maximum</u>	<u>\$297</u>
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Select the correct regional market rate chart from the most current California Child Care Resource and Referral Survey. In this case it is the weekly chart for licensed child care centers for pre-school care costs for Contra Costa County. Use the 75th percentile figure of \$69 and convert to a monthly rate by multiplying $\$69 \times 4.3$ which equals \$297. All figures with 50 cents or higher are rounded up. Compare this to actual cost and select lesser amount.

- | | | |
|-------------|--|--------------|
| <u>.524</u> | <u>TCC payment is whichever is less.</u> | <u>\$275</u> |
| | <u>(Actual cost less family fee or</u> | |
| | <u>reimbursement maximum.)</u> | |

Compare the actual child care cost less the TCC family fee which is \$275 with the reimbursement maximum of \$297. The TCC reimbursement is the lesser of the figures or \$275.

- .53. Example: A TCC family living in Contra Costa County consists of a mother and a preschool child and a ten-year-old. The family's gross monthly earnings are \$1540. The childcare provider runs a family day care home and charges based on an hourly rate. The same provider cares for both children and charges \$1.90 per hour for the preschooler and \$1.50 for the ten-year-old. The mother works a job with shifts of varying lengths. In the first and third weeks of the month, she works four days a week and 12-hour shifts. In the second and fourth weeks of the month, she works five days a week and eight-hour shifts. In month X there were exactly four weeks.

- .531 Determine child care hours and cost:

(a) The preschooler receives 196 196 hours
hours of care
x 1.90
\$ 372

(b) The 10 year old receives
76 hours of care 76 hours
196 hours less 120 hours
in school x 1.50
\$ 114.

XXXXXXXXXXXX

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.532 Determine the family fee \$ 61

from family fee schedule,
family size of three;
earnings of \$1540

.533 Actual cost less the family fee

<u>Child 1</u>	<u>\$ 372</u>
<u>Child 2</u>	<u>+ 114</u>
<u>Total</u>	<u>\$ 486</u>
<u>Less fee</u>	<u>\$ -61</u>
<u>Difference</u>	<u>\$ 425</u>

.534 Determine reimbursement ceiling

Select the appropriate chart from the
RMR Survey. In this case, use the hourly
chart for family day care. The ceiling
for Contra Costa for the preschool child
is \$2.00 per hour. The ceiling for the
10-year-old is \$2.00 per hour. Multiply
the hourly ceiling by the actual hours of
care for each child.

<u>TCC Child 1</u>	<u>196 hours</u>
	<u>x2.00</u>
	<u>\$ 392</u>

<u>TCC Child 2</u>	<u>76 hours</u>
	<u>x2.00</u>
	<u>\$ 152</u>

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.535 Determine the reimbursement maximum

Child 1

Lesser of actual cost (\$372) or
reimbursement ceiling (\$392) \$ 372

Child 2

Lesser of actual cost (\$114) or
reimbursement ceiling (\$152) \$ 114

Reimbursement maximum \$ 486

.536 TCC payment is whichever is less \$ 425
(Actual cost less family fee or
reimbursement maximum.)

* All computations are subject to changes based on revisions to
the Family Fee Schedule and the California Child Care
Resource and Referral Network Survey.

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Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11320.3(f), and 11508, Welfare and Institutions Code; 45 CFR 255.4(a), 45 CFR 256.3(a); and 45 CFR 256.4(b).

Adopt Section 47-165 to read:

47-165 PAYMENT METHODS

47-165

- .1 The county shall choose the method of payment.
- .2 Reimbursement
 - .21 Child care costs shall be reimbursed to the family when a request for payment is submitted.
- .3 Advance
 - .31 The county shall make advance payment to the family or provider when the county determines it is needed for the family to secure or retain child care and employment.
 - .311 The county shall obtain verification from the child care provider that the provider will not accept the child unless an advance is issued.
 - .32 The TCC family shall be required to show proof of payment of actual child care expenses for the period covered by a prior advance before the county issues an advance or reimbursement for the following or any subsequent month.
 - .33 Any advance payment shall be adjusted to actual child care costs allowable when the county receives proof of payment.
 - .331 An adjustment shall occur:
 - (a) As an offset or augmentation on the next month's payment; or
 - (b) By following underpayment or overpayment procedures, as specified in Section 47-190.
 - .34 The county shall determine whether an advance continues to be necessary for each month an advance is requested.
- .4 The county shall be permitted to set up a system of payment or vouchers to provider(s).
 - .41 When a system of payment to providers is established, the county shall also have a system to pay a TCC family for self-arranged care.

- .42 When the TCC family does not use the TCC payment to pay the provider, the county shall be permitted to make payment directly to the provider.

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- .421 Example: A TCC family received \$300 from the county to pay its child care expenses for one month. The TCC family purchased clothing with the \$300. The county elected to send the child care payment to the provider for the TCC family's remaining months of eligibility for TCC program benefits.

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Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 255.3(a), (c), and (d); 45 CFR 255.4(h) and (j)(1); and 45 CFR 256.4(a) and (b).

Adopt Section 47-170 to read:

47-170 LOSS OF PROGRAM ELIGIBILITY

47-170

.1 Termination of Employment Without Good Cause

- .11 The TCC family shall lose its eligibility for TCC program benefits for any remaining portion of the eligibility period if the TCC family terminates employment without good cause.
- .111 Quitting a job in order to immediately take another job shall constitute good cause.
- .112 The county shall establish other criteria of good cause according to the circumstances of the specific TCC family.
- .12 A penalty for terminating employment without good cause shall be superseded when the TCC family reestablishes a new eligibility period.

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- .121 Example: A TCC family terminates employment without good cause. The family returns to AFDC for three months. The family finds another job and submits a TCC application. If the family meets all eligibility requirements, the family will be given a new eligibility period without regard to the prior instance of terminating a job without good cause.

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- .13 The TCC family shall not lose its eligibility for the remaining portion of the original eligibility period when the TCC family terminates employment with good cause and then finds another job within the eligibility period.
- .2 Noncooperation With Child Support Enforcement
- .21 The TCC family shall lose its eligibility for TCC program benefits for any remaining portion of the eligibility period if the county is advised by the district attorney's office that the family has failed to cooperate with the child support requirements, as specified in Chapter 43-200, for the TCC children.

.3 Failure to Meet Program Requirements

- .31 The TCC family shall lose its eligibility for TCC program benefits for any remaining portion of the eligibility period if the TCC family ceases to meet the TCC program eligibility requirements, as specified in Section 47-120.

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- .311 Example: The only TCC child moves out of the TCC household. The family loses TCC program eligibility.

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.4 Failure to Comply with Payment Plan

- .41 The TCC family shall lose its eligibility for TCC program benefits for any remaining portion of the eligibility period if the TCC family:
- .411 Fails to negotiate a payment plan with the provider for payment of delinquent family fees; or
- .412 Fails to comply with provisions of the approved payment plan.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 250.35; 45 CFR 256.2(a), (b), and (e); 45 CFR 256.3(d)(1) and (2); and 45 CFR 256.3(e).

Adopt Section 47-175 to read:

47-175 REPORTING

47-175

.1 Request for Payment

.11 A TCC family shall submit a written request for payment signed under penalty of perjury for each month it has child care costs.

.111 A request for payment shall include, but not be limited to, information about:

(a) Hours worked by the TCC family;

(1) Acceptable verification shall be pay stubs or written statements of the TCC family certifying that the family members are still employed and the hours of employment.

(b) Type of provider;

(c) Total child care hours for the month;

(d) Total child care costs for the month;

(e) Verification from the provider that the TCC family is paying its family fees;

(f) Verification from the provider that the TCC family is complying with a delinquent family fee payment plan, if applicable; and

(g) Verification that the provider meets payment eligibility requirements.

.12 The county shall send a notification to the TCC family within ten calendar days after receipt of request for payment advising the TCC family of additional information needed.

.13 The county shall verify that the information submitted on the request for payment upon which the eligibility for payment is determined and upon which the payment amount shall be based is correct.

.14 Issuing Payment

.141 When the TCC family has met the "written-request-for-benefits-requirement" and has submitted all required income information, the county shall issue a TCC payment within the following time frames:

(a) At the same time action is required on a request for TCC program benefits, when:

(1) The request for payment is submitted at the same time the request for TCC program benefits is received; and

(2) The TCC family is determined to be eligible for TCC program benefits.

(b) Within seven calendar days of the request for payment, when an advance request for payment has been approved by the county.

(c) Within 20 calendar days of the date the county receives a complete request for payment in all other situations.

.142 No payment shall be issued for a request for payment which is submitted later than the end of the month following the eligibility period.

.2 Income Information

.21 A TCC family shall submit income information for each of the first three months of the eligibility period, unless the family submits a request for program benefits in the fourth month of the eligibility period or later.

.211 Families which submit a written request for TCC program benefits in the fourth through twelfth month of the eligibility period shall submit income information for the three months immediately preceding the written request for TCC program benefits.

.22 The TCC family shall be permitted to submit at any time during the eligibility period income information for the preceding three consecutive months of the eligibility period to receive a recomputation of the TCC family fee.

.221 When the request for a family fee change is initiated by the TCC family, the new family fee shall become effective the first day of the month following 30 calendar days after the income information is submitted.

.23 The county shall verify the income information submitted by the family and upon which a family fee change will be based is correct.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 255.1(e)(4); 45 CFR 255.4(a), (a)(3), (c), (c)(2), (e)(2), (f), (f)(2), (h), (i), and (j); 45 CFR 255.5; 45 CFR 256.1(b); 45 CFR 256.2(a); 45 CFR 256.3(b) and (d); and 45 CFR 256.4(a) and (b).

Adopt Section 47-180 to read:

47-180 INTERCOUNTY TRANSFER PROCEDURE - COUNTY RESPONSIBILITY

47-180

- .1 An intercounty transfer (ICT) shall be initiated if the TCC family is approved for TCC program benefits in a county and then moves to a new county of residence.
- .2 When the initial county (County A) becomes aware that the family has moved to a new county of residence (County B), County A shall take action to transfer the case.

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- .21 County A may become aware of the move by:
 - .211 Receipt of a request for payment or income information from the family which shows a new address.
 - .212 Telephone notification by the family or County B.
 - .213 Some other means.

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- .3 Within 20 calendar days of becoming aware of the move, County A shall send to County B:
 - .31 Notice of transfer and the date upon which it becomes effective.
 - .311 The transfer to County B becomes effective the first of the month following 20 calendar days after the date of notification of transfer from County A.
 - .312 The date of notification is the date that County A completes the notice of transfer which is to be sent to County B. The Notice of Transfer shall be mailed to County B within two days after its completion.
 - .32 Copies of all information in the TCC case file, including:
 - .321 The written request for TCC program benefits.
 - .322 Requests for payment and payment computation sheets.

- .323 Specification of the family's eligibility period.
 - .324 Income and family size information received by County A and family fee computations.
- .33 Copies of documents from the AFDC case file upon which TCC eligibility was determined, including:
 - .331 Proof of ages of the children receiving TCC payment.
 - .332 Proof of legal residency status of the children receiving TCC payment.
 - .333 Proof of or application for a social security number for each member of the family who would have been included in the assistance unit when the family was receiving AFDC.
 - .334 Statement of the time period during which the family received AFDC.
- .34 Copies of other information which County A considers material for County B to assume the responsibility for payment.
- .4 County A shall notify the TCC family within 20 calendar days of becoming aware of the move that any requests for payment or income information which is submitted after the effective date of the transfer must be submitted to County B.
- .5 At the time of request for TCC program benefits, the TCC family shall be informed that failure to notify County A of a move in a timely manner may result in a delay in the issuance of a child care payment equal to the number of calendar days that the family is late.
- .6 At the time of request for TCC program benefits, the TCC family shall be informed that failure to submit information to County B may result in a delay in the issuance of a child care payment equal to the number of calendar days that the family is late.
- .7 County B shall send County A a written acknowledgement of the receipt of the notice of transfer and copies of the TCC case file and other information within ten calendar days of receipt.
- .71 When County A has not received the acknowledgement from County B by the date it is due, County A shall contact County B.

- .72 County A and County B shall reach an agreement on the transfer which assures no disruption in the receipt of program benefits by the TCC family.
- .73 If there is a dispute regarding the county of responsibility, the dispute shall be referred to State Department of Social Services (SDSS) as specified in Section 40-197.1.
- .8 County B shall send to the TCC family a list of any information needed to establish the correct reimbursement ceiling or needed to establish the family's payment eligibility within ten calendar days of receiving the notice of transfer from County A.
- .9 County B shall be responsible for acting upon any request for payments received on or after the effective date of the transfer.
- .91 This shall include any requests for payments submitted on or after the effective date of the transfer which pertain to a month prior to the effective date of the transfer.

Authority Cited: Sections 10553, 10554, and 10604 Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 255.4(i); 45 CFR 256.2(a) and (b); and 45 CFR 256.4(b), (c), and (d).

Adopt Section 47-185 to read:

47-185 INTERCOUNTY TRANSFER PROCEDURE - TCC FAMILY
RESPONSIBILITY

47-185

- .1 The TCC family shall notify County A that the family has moved to County B within five calendar days of the move.
- .2 The TCC family shall submit to County B any information needed by County B to determine the reimbursement ceiling or to establish the family's payment eligibility within five calendar days of when the TCC family received the information request.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 255.4(i); and 45 CFR 256.4(b).

Adopt Section 47-190 to read:

47-190 ERRONEOUS PAYMENTS

47-190

.1 General Criteria

- .11 Underpayments occur when the applicant or recipient receives less than the amount which he/she is entitled to in any month.
 - .111 Underpayments shall be paid to the TCC family within 20 calendar days of discovery.
 - (a) Failure by the TCC family to submit a request for payment by the last day of the month following the eligibility period shall not create an underpayment.
- .12 An overpayment is that amount of TCC payment made on behalf of a TCC family to which it is not eligible. An overpayment may be all or a portion of a TCC payment. This includes TCC payments pending a state hearing. Overpayments shall result in the following instances:
 - .121 Advance TCC payments are made which are not subsequently supported by receipts;
 - .122 TCC payments are made for an ineligible child;
 - .123 TCC payments are made for care given by an ineligible provider;
 - .124 TCC payments are made when the family is ineligible;
 - .125 Errors are made in computing the family fee or TCC payment due to misreported information which is available to the TCC family;
 - (a) No overpayment occurs when the estimate of gross monthly earnings used to compute the family fee is made in good faith.
 - .126 Administrative errors are made in computing the TCC family fee or payment.

.2 Initiating Recovery or Collection Action

- .21 The county shall take all reasonable steps necessary to promptly correct and collect any overpayment that is known to the county.
- .22 The county shall establish the claim within ten calendar days of the date the overpayment is first discovered.
- .221 Establishing the claim includes calculation of the overpayment, establishment of the account receivable and distribution of appropriate notice of action.
- .222 When it is determined that an overpayment exists, the county shall calculate the amount of the overpayment and determine the appropriate method of recovery.

HANDBOOK BEGINS HERE

- (a) Recovery methods may be used concurrently.
- (b) The methods that result in the maximum recovery should be used.

HANDBOOK ENDS HERE

- .223 The county shall determine who the claim shall be established against.
- (a) The claim shall be established against:
- (1) Any TCC family that has received more payments than it was entitled to receive; or
- (2) Any provider that has directly received more payments from the county than it was entitled to and the error was the provider's fault;
- (3) Any TCC family which contains an adult member who was an adult member of another TCC family that received more payments than it was entitled to receive.

.224 The county shall initiate collection action against the TCC family by providing the TCC family with a repayment notice.

(a) The repayment notice shall inform the TCC family of:

- (1) The amount owed;
- (2) The reason for the claim;
- (3) The period of time that the claim covers;
- (4) Any offsetting that was done to reduce the claim;
- (5) Methods of recovery; and
- (6) The right of the TCC family to a state hearing if the TCC family disagrees with any aspect of the claim.

.225 The county shall initiate collection action against the provider by providing the TCC provider with a repayment letter;

(a) The repayment letter shall inform the TCC provider of:

- (1) The amount owed;
- (2) The reason for the claim;
- (3) The period of time that the claim covers;
- (4) Any offsetting that was done to reduce the claim; and
- (5) Methods of recovery.

.226 The county shall take recovery or collection action without further notice when the TCC family or provider does not respond to the repayment notice or repayment letter within ten calendar days of the date mailed.

.23 Recovery of overpayments shall be made only from TCC payments, except as specified below:

.231 The family shall be permitted to have a TCC overpayment to be adjusted from its AFDC grant when the family returns to AFDC, provided:

- (a) The family chooses this method of recovery; and
- (b) The family agrees with the amount of the AFDC grant adjustment.

.3 Recovery/Open Cases

.31 Payment Adjustment

.311 The overpayment is to be adjusted from the current TCC payment.

- (a) If the current payment is not enough to recover the entire overpayment, then the remaining amount of the overpayment is applied to succeeding month(s) and the adjustment process is repeated.

.312 If recovery is made from the current payment, counties may attempt to recover any amount necessary to repay the overpayment, provided the amount is not less than the amounts specified below:

- (a) When the county determines there will be no disruption of the child care arrangement or employment of the family, the amount recovered shall be 20 percent of the child care payment.
- (b) When the county determines that recovery of 20 percent would cause a disruption of the child care arrangement or employment, or that the family would be caused undue hardship, the county shall negotiate a payment schedule based on some other percentage of the child care payment which:
 - (1) Ensures that the TCC family is left with a reasonable amount of funds.
 - (2) Ensures prompt recovery.

.32 Balancing

.321 When a TCC family has both an overpayment and an underpayment, the county shall offset one against the other.

.322 When a provider has been paid an ineligible payment which results in an overpayment, the county shall balance/offset the overpayment in the following month(s) payment.

.33 Voluntary Cash Recovery

.331 Counties shall accept any voluntary cash payment from the TCC family or providers to pay any portion of an existing overpayment. This method may be used in addition to benefit adjustment and balancing.

.4 Demand/Closed Case

.41 The county shall demand repayment of any amount not recovered by payment adjustment, or otherwise repaid.

.411 The balance of any overpayment shall become due and payable immediately upon termination of program eligibility unless the TCC family or provider enters into a repayment agreement with the county.

.42 In cases of families or providers who refuse to repay, recovery shall be made by appropriate action under state law against the income and resources of the overpaid individual, provider, or TCC family.

.421 Counties shall submit the names of the overpaid individuals or individuals within the overpaid TCC family who fail to repay as agreed or refuse to repay to the State Intercept Program.

HANDBOOK BEGINS HERE

(a) Submission to and use of the State Intercept Program should be in accordance with SDSS Manual of Policies and Procedures Division 20-400.

HANDBOOK ENDS HERE

.43 No further collection efforts shall be made once the cost to collect the overpayment exceeds the amount to be recovered and at least one demand letter for repayment has been sent.

.431 In all cases of fraud, recovery efforts shall be pursued.

.432 Counties shall maintain information regarding the uncollected overpayment to enable recoupment should the TCC family reapply.

.5 Record maintenance of overpayments

.51 A record of the overpayment, the method used for recovery and the dates and amounts recovered shall be maintained by the county.

.52 Data to be maintained includes:

.521 Debtor's name and case number.

.522 Debtor's sex, birthdate, social security number, and last known address.

.523 The amount of the overpayment.

.524 The period during which the overpayment occurred.

.525 The reason for the overpayment.

.526 The date of discovery of the overpayment.

.527 All recoveries made including dates and amounts and methods used.

.528 When fraud is suspected, the date of referral to the Special Investigative Unit (SIU).

.529 A chronological record of all contacts made regarding the overpayment.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613 and 11209, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 255.4(i) and (j); and 45 CFR 256.4(b) and (d).

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In this office of the Secretary of State
of the State of California

MAR 30 1990

At 3:49 o'clock P.M.

MARCH FONG EU, Secretary of State

By Louella Cruz
Deputy Secretary of State

This certifies that the regulations submitted in the
rulemaking file identified below were reviewed and approved
by the Director of the Office of Administrative Law in the
city of Sacramento, state of California.

Submitting Agency: Social Services

OAL File No: 90-0320-02


LINDA BREWER
DIRECTOR

03/30/90
